

APPENDIX P

**Corps Initiation of the
Government-to-Government Relationship
with Federally Recognized Tribes**

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REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, ALASKA
P.O. BOX 6898
JBER, ALASKA 99506-0898

SEP 24 2012

District Commander

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear President [REDACTED]:

The U.S. Army Corps of Engineers (USACE), Alaska District, in cooperation with the Environmental Protection Agency (EPA), Bureau of Land Management (BLM) and Alaska Department of Natural Resources (ADNR), is participating in the development of an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA) for the proposed Donlin Mine Project (Project). The proposed Project would be located in Western Alaska, approximately 10 miles from the Village of Crooked Creek.

Infrastructure plans call for the following: two ports on the Kuskokwim River; a 312-mile long, 14-inch diameter natural gas pipeline from Cook Inlet to the north of Crooked Creek; navigation and a pipeline crossing of the Kuskokwim River; diesel storage at Dutch Harbor and Bethel; a 30-mile long road; a Hercules/C-130-capable airstrip; a man-camp; power generation (157-megawatts, equivalent to a city the size of Fairbanks); an open mine pit that would be 2.5 miles long by 0.75-miles wide by 1,800 feet deep; and, a tailings impoundment/waste treatment facility which would be 1.5 miles long by 1.0 mile wide. The proposed mine and all related facilities would have a total footprint of 16,300 acres. The project applicant/proponent, Donlin Gold, predicts that the mine would mill 59,000 short tons of ore per day to obtain 1.3 million ounces of gold per year over a 27.5-year mine operational life (37.5 years total including 5 years of construction time and another 5 years of reclamation time). Please see the enclosed map of the proposed Project area.

USACE, as the designated lead Federal agency, has the overall responsibility for both the EIS process and government-to-government coordination with tribes that may be impacted by the proposed Project. Please see enclosed Tribal Consultation Plan for the Development of the Donlin Mine EIS. USACE invites you to an informational teleconference for tribes so that we may begin discussing the scope and nature of the proposed Project and to begin a dialogue with tribes. **The teleconference for tribes will be held on Tuesday, October 30, 2012, beginning at 10:00 a.m. Please call toll-free number 1-877-873-8018; access code: 6782231; and security code: 1234.**

Tribes may have several avenues by which they may be able to participate: on a government-to-government basis; as a Cooperating Agency; as stakeholders; and/or, through the public process as private citizens. Tribes may become Cooperating Agencies in the EIS process if they have special expertise with respect to environmental, social, and/or economic impacts associated with the proposed action. Cooperating Agencies have the responsibility to assist the lead agency by providing information and environmental analyses, reviewing direct, indirect, and cumulative effects, suggesting mitigation measures for adverse effects; and making staff available to enhance the lead agency's interdisciplinary capabilities. If your tribe is considering requesting Cooperating Agency status, please be aware that being a Cooperating Agency entails a considerable commitment of both tribal staff time and resources, including participating in biweekly meetings, multiday meetings, and providing comments within scheduled timeframes. The lead agency does not provide funds for Cooperating Agencies to participate, therefore, any tribe considering Cooperating Agency status is responsible for providing their own resources and funding to participate in the process.

Please consider this letter our notification of proposed Department of Defense (DoD) activity under the DoD American Indian and Alaska Native Policy. A copy of the Policy can be found online at <https://www.denix.osd.mil/na/Policy.cfm> under the section entitled "DoD Policies," or if you prefer a hard copy please contact Ms. Amanda Shearer at the number listed below. Please advise me in writing by completing the enclosed Consultation Questionnaire if you wish to enter into government-to-government consultation with USACE regarding a protected tribal right or resource that may be affected by this activity, or if your tribe has an interest in Cooperating Agency status throughout the NEPA review process. A stamped/addressed envelope has been provided for return of the Consultation Questionnaire. A copy of this letter is also being sent to your Tribal Administrator.

If you have any questions regarding the project, please contact Mr. Don Kuhle, Project Manager, at telephone number (907) 753-2780; toll free from within Alaska at (800) 478-2712, by email at Don.P.Kuhle@usace.army.mil or by mail at the address above, ATTN: CEPOA-RD. Please contact Ms. Amanda Shearer, Tribal Liaison, at (907) 753-5674 or by e-mail at Amanda.M.Shearer@usace.army.mil.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Lestochi", with a stylized flourish extending to the left.

Christopher D. Lestochi
Colonel, Corps of Engineers
District Commander

Enclosures

U.S. Army Corps of Engineers, Alaska District Tribal Coordination Plan for the development of the Donlin Mine Environmental Impact Statement (EIS)

The U.S. Army Corps of Engineers (USACE), Alaska District, is the lead permitting federal agency for the purposes of complying with the National Environmental Policy Act (NEPA) for the proposed Donlin Mine project (Project). The proposed Project would be located in Western Alaska, approximately 10 miles from the Village of Crooked Creek. Infrastructure plans call for the following: two ports on the Kuskokwim River; a 312-mile long, 14-inch diameter natural gas pipeline from Cook Inlet to the north of Crooked Creek; navigation and a pipeline crossing of the Kuskokwim River; diesel storage at Dutch Harbor and Bethel; a 30-mile long road; a Hercules/C-130-capable airstrip; a man-camp; power generation (157-megawatts, equivalent to a city the size of Fairbanks); an open mine pit that would be 2.5 miles long by 0.75-miles wide by 1,800 feet deep; and, a tailings impoundment/waste treatment facility which would be 1.5 miles long by 1.0 mile wide. The proposed mine and all related facilities would have a total footprint of 16,300 acres. The project applicant/proponent, Donlin Gold, predicts that the mine would mill 59,000 short tons of ore per day to obtain 1.3 million ounces of gold per year over a 27.5-year mine operational life (37.5 years total including 5 years of construction time and another 5 years of reclamation time).

Federal agencies are charged with engaging in regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications pursuant to Executive Order 13175 on Consultation and Coordination with Indian Tribal Governments (November 6, 2000) and the Presidential Memorandum regarding Tribal Consultation (November 5, 2009). As the lead federal agency for the development of the Donlin Mine Environmental Impact Statement (EIS), USACE is responsible for government-to-government consultation and coordination with federally recognized tribes that may be impacted by the proposed Project¹.

The government-to-government consultation process for the proposed Donlin Mine project is designed to provide federally recognized tribes in Alaska that may potentially be impacted by the proposed project with opportunities for meaningful participation in the federal permitting process. Tribes and other Alaska Native stakeholders will have several opportunities throughout the environmental review process to participate and provide input. Formalized government-to-government consultation may take place with those federally recognized tribes that provide a written response detailing the specific tribal rights and/or resources that the proposed project may potentially impact. This plan outlines USACE's approach to conducting tribal coordination and consultation for the Project.

¹ USACE follows the Department of Defense (DoD) American Indian and Alaska Native Policy and DoD Alaska Guidance for developing and maintaining government-to-government relationships with federally recognized tribes. The Policy can be found online at <https://www.denix.osd.mil/na/Policy.cfm> under the section entitled "DoD Policies."

Initiating the Government-to-Government Relationship

USACE will notify and invite tribes into government-to-government consultation early in the process. The consultation process will be coordinated with the NEPA scoping effort and may continue past the review phase of the project; but, to the extent possible, the results of tribal consultation will be reported in the EIS.

USACE has developed a list of federally recognized tribes that could be potentially impacted by the proposed project. At this time and for the purposes of this plan, the list includes 66 tribes (see page 4). An initial letter will be sent to the tribes on the list, including basic project information, how tribes may participate in the development of the EIS and an invitation to formal consultation. It is expected that not all tribes will request formal consultation, but that they may participate in informal consultation throughout the project review. Informal consultation will consist of the two-way sharing of information through mailings, teleconferences, and regional meetings with tribes during the NEPA process that are held separate from the public meetings. The consultation questionnaire included with the letter will request that each tribe appoint an individual to represent them in government-to-government correspondence. The initial mailing will be followed by telephone calls and/or electronic mail/fax to ensure the letter was received.

USACE may add to the original list of tribes if it is determined that the project has the potential to impact the tribal rights and/or resources of additional tribes. USACE would base such a determination on an evaluation of information provided by the interested tribes regarding potential project-related impact. Some types of resources that may be impacted include:

1. Subsistence² – impacts either from construction and operation of the project or the project-related infrastructure. These impacts can be of several types:
 - a. Direct impact on traditional subsistence use areas
 - b. Disruption of access to traditional subsistence use areas
 - c. Introduction of other hunters or anglers to areas which can substantially reduce the subsistence harvest
 - d. Temporary or permanent changes in migration patterns of subsistence species
2. Archaeological sites
3. Traditional cultural properties

² DoD American Indian and Alaska Native Policy states that “...individual rural residents of Alaska, including both Natives and non-Natives, generally have a right to engage in non-wasteful subsistence uses of fish, wildlife, and other wild, renewable resources on public lands in Alaska. While this right is not a tribal right per se, installations nonetheless may find it both convenient and beneficial to consult with the appropriate Alaska Native entity whenever proposed DoD action may have the potential to adversely affect the subsistence activities of several members of the small village or tribe (page 2).”

Record Keeping

A record of the consultation process will be maintained. Information received from tribes in meetings or through written submission will be reviewed and considered. Telephone conversations with tribes will be summarized, dated, and added to the administrative record. Sensitive material specifically protected by law, such as information from the tribal consultation concerning the location, character, or ownership of a historic property, will be restricted from public access.

Schedule

USACE will confer with the relevant tribes regarding consultation meetings to determine the appropriate location, timing, transportation logistics, and possible language translation needs.

Estimated dates for the following list of meetings and action items will be determined as the proposed Donlin Mine EIS develops. The following milestones and opportunities for meaningful participation by tribal governments will be provided during the EIS process:

- Notification and invitation to consultation letter sent to potentially impacted tribes
- Informational teleconferences for tribes at project milestones or as needed
- Informal consultation meetings with tribes throughout the NEPA process, which will be separate from the public meetings
- Formal one-on-one consultation with tribes whom request formalized government-to-government throughout the NEPA process
- NEPA Scoping meetings
- Publishing of the Draft EIS
- Draft EIS comment meetings
- Publishing of the Final EIS

Alaska Native Tribes Identified for Tribal Coordination

Calista Region

- Akiachak Native Community
- Akiak Native Community
- Village of Alakanuk
- Yupiit of Andreafski
- Village of Aniak
- Village of Atmautluak
- Orutsaramuit Native Village (aka Bethel)
- Village of Bill Moore's Slough
- Village of Cheforak
- Chevak Native Village
- Native Village of Chuathbaluk
- Chuloonawick Native Village
- Village of Crooked Creek
- Native Village of Eek
- Emmonak Village
- Native Village of Georgetown
- Native Village of Goodnews Bay
- Native Village of Hamilton
- Native Village of Hooper Bay
- Village of Kalskag
- Village of Lower Kalskag
- Kasigluk Traditional Elders Council
- Native Village of Kipnuk
- Native Village of Kongiganak
- Village of Kotlik
- Organized Village of Kwethluk
- Native Village of Kwigillingok
- Lime Village
- Native Village of Marshall (aka Fortuna Ledge)
- Native Village of Mekoryuk
- Asa'carsarmiut Tribe
- Native Village of Napaimute
- Native Village of Napakiak
- Native Village of Napaskiak
- Newtok Village
- Native Village of Nightmute

- Native Village of Nunam Iqua
- Native Village of Nunapitchuk
- Village of Ohogamiut
- Oscarville Traditional Village
- Native Village of Paimiut
- Pilot Station Traditional Village
- Native Village of Pitka's Point
- Platinum Traditional Village
- Native Village of Kwinhagak (aka Quinhagak)
- Village of Red Devil
- Iqurmuit Traditional Council
- Algaaciq Native Village (St. Mary's)
- Native Village of Scammon Bay
- Village of Sleetmute
- Village of Stony River
- Nunakauryarmiut Tribe
- Tuluksak Native Community
- Native Village of Tuntutuliak
- Native Village of Tununak
- Umkumiut Native Village

Doyon Region

- Anvik Village
- Organized Village of Grayling
- Holy Cross Village
- McGrath Native Village
- Nikolai Village
- Shageluk Native Village
- Takotna Village
- Telida Village

Cook Inlet Region

- Knik Village
- Native Village of Tyonek

CONSULTATION QUESTIONNAIRE

Project: Development of the Environmental Impact Statement (EIS) for Donlin Mine

Please check the appropriate response(s) describing the level of involvement your Tribe prefers regarding the development of the EIS for the proposed Donlin Mine:

- ☐ There are or may be issues of concern associated with the preparation of the EIS or the proposed project and we request further consultation on a government-to-government basis regarding the following tribal rights or resources:

- ☐ We are interested in potentially participating as a Cooperating Agency. We can provide special expertise regarding the following environmental, social, and/or economic impacts:

- ☐ We want to continue to receive project information by mail and participate in the EIS public involvement process as a stakeholder.

- ☐ We have no interests associated with the preparation of an EIS or the proposed project at this time.

NOTE: Please use the back of this form or additional sheets to make further comments.

_____ or current tribal leader, designates the following person as a tribal point of contact for this proposed project:

Name and Title: _____

E-mail: _____

Phone: _____

Signed by Tribal Leader: _____ Date: _____

Please return completed forms using the enclosed stamped/addressed envelope. A response would be appreciated by October 30, 2012.

You may also scan and e-mail this form to: Don.P.Kuhle@usace.army.mil

If you have any questions regarding the project, please contact Mr. Don Kuhle, Project Manager, at (907) 753-2780 or toll-free in Alaska at (800) 478-2712; or, Ms. Amanda Shearer, Tribal Liaison, at (907) 753-5674 e-mail Amanda.M.Shearer@usace.army.mil.

