



## TRUSTEES FOR ALASKA

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November 15, 2016

*Via email to:*

Deputy Commissioner Ed Fogels  
Alaska Department of Natural Resources  
550 W. 7th Avenue, Ste 1400  
Anchorage, AK 99501  
[ed.fogels@alaska.gov](mailto:ed.fogels@alaska.gov)

**Re: Violations of Pebble Limited Partnership's Current MLUP No. 6118 (2014-2016)**

Dear Deputy Commissioner Fogels:

I am writing on behalf of Nunamta Aulukestai ("Nunamta") regarding concerns about Pebble Limited Partnership's ("PLP") compliance with its current Miscellaneous Land Use Permit ("MLUP") No. 6118.

Nunamta appreciates the Department of Natural Resources' ("DNR") willingness to discuss our continued concerns about clean-up efforts at the Pebble Mine site. Nunamta also appreciates DNR's inspection efforts this summer and willingness to increase transparency by continuing to provide additional information about that inspection. While Nunamta is appreciative of DNR's efforts, the independent inspection report commissioned by the United Tribes of Bristol Bay ("UTBB") and prepared by Center for Science in Public Participation ("CSP2") confirmed that there is validity to many of the problems Nunamta (and other groups from the region) have been identifying for DNR over the course of the past year.

According to the independent inspection report, PLP is in violation of their current permit, MLUP No. 6118. As such, Nunamta urges DNR to require PLP to immediately remedy these violations and create a detailed work plan for any violations that cannot be addressed by the end of the year. DNR has already asked PLP to create a work plan to remedy problems identified during DNR's July inspection. We request that DNR include all of the violations identified below as items to be addressed in this work plan. If PLP is unable to correct the permit violations before the end of the year, then DNR should incorporate the work plan and require PLP to remedy violations accordingly as a condition of their new permit. In addition, to fully protect the State's natural resources and to avoid financial liability in the event of PLP's failure, DNR should require a performance guarantee under 11 AAC 96.060.

DNR's authority to take these actions is clear. DNR manages and protects state land, in part, through Miscellaneous Land Use Permits. The Director of the Division of Mining Land and Water is required to "manage, inspect, and control state land." AS 38.05.035(a)(2). The Director is also required to "perform the duties necessary to protect the state's rights and interest in state land, including the taking of all necessary action to protect and enforce the state's contractual or

other property rights.” AS 38.05.035(a)(7). The purpose of the Miscellaneous Land Use permitting scheme is to “to manage uses and activities on state public domain land . . . in order to minimize adverse effects on the land and its resource.” 11 AAC 96.005.

Every MLUP issued by DNR “is subject to any provisions the department determines necessary to assure compliance with this chapter, to minimize conflicts with other uses, to minimize environmental impacts, or otherwise to be in the interests of the state.” 11 AAC 96.040(b). In addition, the provisions in the Miscellaneous Land Use regulations apply “to all land use activities on state land.” 11 AAC 96.007.

If a permit holder violates any of the MLUP regulations “or a provision of a permit,” they are “subject to any action available to the department for enforcement and remedies.” 11 AAC 96.145(a). In particular, if a permit holder “responsible for an unremedied violation of [the MLUP regulations] or a provision of a [MLUP] applies for a new [MLUP], [DNR] may require the applicant to remedy the violation as a *condition of the new authorization*.” 11 AAC 96.145(b) (emphasis added). DNR can also require the applicant “to begin remediation and provide security under 11 AAC 96.060 to complete the remediation before receiving the new authorization.” *Id.* Moreover, when an applicant seeking a new MLUP “has previously been responsible for a violation of this chapter or a provision of a [MLUP], whether remedied or unremedied, that resulted in substantial damage to the environment or to the public,” DNR is directed to consider that violation in determining the amount of the security to be furnished under 11 AAC 96.060. DNR may also “require the applicant to furnish three times the security that would otherwise be required.” *Id.*

In addition to general requirements under the Miscellaneous Land Use permitting scheme, DNR also has an obligation to make certain that mining operations are safely conducted and to ensure “the protection of the public safety and public interest.” AS 27.20.005. If an “unsafe condition” is identified at a mine site, DNR “shall at once serve notice in writing upon the owner, lessee, agent, operator, manager, or superintendent of the mine, setting out the nature of the defects that render the mine unsafe or insecure and the place in the mine where the defects exist, and require the repairs necessary to remedy the defects to be made within a specified time.” AS 27.20.031.

PLP is currently operating under MLUP No. 6118, which expires on December 31, 2016. *See* Attach. 1 (Pebble Limited Partnership MLUP No. 6118). This permit contains eleven specific reclamation stipulations, including: (1) “[a]ll drill hole casings shall be removed or cut off at, or below, ground level,” (2) “[a]ll drill holes shall be plugged by the end of the exploration season during which they are drilled,” (3) “[i]f artesian conditions are encountered, the operator shall contact the Department of Environmental Conservation . . . for hole plugging requirements,” (4) “[t]opsoil and overburden muck . . . shall be protected from erosion and contamination by acidic or toxic materials,” and (5) several provisions requiring “natural revegetation.” *See* Attach. 1, Sec. 1. The permit also provides that “[s]hould any unlawful discharge, leakages, spillage, emission, or pollution of any type occur . . . [the] permittee, at its expense shall be obligated to clean the area to the reasonable satisfaction of the State of Alaska.” *See* Attach. 1, Sec. 10.

UTBB's independent report documents a week-long inspection of 107 sites at the Pebble deposit. *See* Attach. 2 (CSP2, Investigation of Reclaimed Drill Sites, Pebble Prospect, 2016). The report found that "71 of 107 sites inspected were not fully reclaimed." *See* Attach. 2, 14. The report documented that "25% [of the sites] had issues such as drill casings still protruding above the surface and posing physical hazards, and 41% had environmental issues such as dead vegetation, acid soil, artesian wells, or water, soil or sediment with elevated metals." *See* Attach. 2, 4. The following chart summarizes the problematic sites, identifies the issues at those sites documented by UTBB's report, and identifies the permit conditions or state statutory and regulatory provisions that are being violated as a result. In total, the chart below identifies 111 individual permit violations documented by UTBB's report.

\* *See* Attach. 6 (PLP Project Status Update for Historic and Current Drill Sites, April 18, 2016)

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
DDH 3129	2004	Abandoned site in stable condition; Fully reclaimed; No action needed	Acid soil (pH 3.2)	MLUP No. 6118, Sec 1a and Sec. 10 AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b) 11 AAC 97.240
			Contaminated soil (drill cuttings), elevated levels <sup>1</sup> of: Sulfate 72-546 mg/L Arsenic 108-175 mg/kg Copper 422-1,650 mg/kg Molybdenum 215-233 mg/kg	MLUP No 6118, Sec. 1a and 10 AS 27.19.020 11 AAC 97.200(a)(1)
			Dead vegetation	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Drill cuttings present (flushed from drill hole)	MLUP No. 6118, Sec. 1h <sup>2</sup> AS 27.19.020 11 AAC 97.200(a)(1)
DDH 4171	2004	Active site in stable condition;	Dead vegetation (over wide areas, in depressions)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020

<sup>1</sup> Baseline soil levels: Sulfate (13-67 mg/L); Silver (<0.2 mg/kg); Arsenic (2-4 mg/kg); Copper 9-20 mg/kg); Molybdenum (0.4 mg/kg). *See* Attach. 2, 22.

<sup>2</sup> If a drill site was adequately plugged according to MLUP No. 6118 Sec. 1h, the drill site would not be flushing drill cuttings.

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
		Fully reclaimed		11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Drill cuttings present, may be flushing from drill hole	MLUP No. 6118, Sec. 1h <sup>2</sup> AS 27.19.020 11 AAC 97.200(a)(1)
DDH 4202	2004	Inactive site in stable condition; Fully reclaimed; Monitored	Open casing	MLUP No. 6118, Sec. 1g and h
			Artesian (spring/pool at base of drill casing)	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
			Contaminated sediment (base of drill casing), elevated levels <sup>3</sup> of: Copper 1,892 mg/kg Molybdenum 246 mg/kg	MLUP No 6118, Sec. 1a and 10 AS 27.19.020 11 AAC 97.200(a)(1)
			Contamination water (base of drill casing), metals present: Aluminum; Manganese; and Iron	MLUP No 6118, Sec. 10 AS 27.19.020 11 AAC 97.200(a)(1)
DDH 5330	2005	Active site in stable condition; Fully reclaimed; Monitored	Artesian (pooled water at the base of casing)	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
			Open casing	MLUP No. 6118, Sec. 1g and h
			Contaminated sediment, elevated levels <sup>3</sup> of: Copper 621 mg/kg Molybdenum 98 mg/kg	MLUP No 6118, Sec. 1a and 10 AS 27.19.020 11 AAC 97.200(a)(1)
DDH 6355	2007	Abandoned site in stable condition;	Large area of dead vegetation	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020

<sup>3</sup> Baseline sediment levels: Copper, nearby sites (9-20 mg/kg); Molybdenum, nearby sites (0.4 mg/kg). *See* Attach. 2, 21.

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
		Fully reclaimed; No action needed		11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Acid soil (field pH 2.90)	MLUP No. 6118, Sec 1a and Sec. 10 AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b) 11 AAC 97.240
DDH 7359	2007	Inactive site in stable condition; Fully reclaimed; No action needed	Open casing	MLUP No. 6118, Sec. 1g and h
DDH 7380/ 7386	2008	Inactive or abandoned site in stable condition; Fully reclaimed; No action needed	Artesian (grey liquid flowing out of casing hole)	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
			Contaminated water (artesian flow from ground), elevated levels <sup>4</sup> of: Copper 76 ug/L Iron 8 mg/L Metals present (Al, K, Ca, Fe, Mn, Cu, Zn, As, Ag, Cd, Pb, Th, U)	MLUP No 6118, Sec. 10 AS 27.19.020 11 AAC 97.200(a)(1)
			Identification posts down (laying on tundra)	AS 27.20.031
			Contaminated sediment, elevated levels <sup>3</sup> of: Copper 599 mg/kg Molybdenum 43 mg/kg Sodium present	MLUP No 6118, Sec. 1a and 10 AS 27.19.020 11 AAC 97.200(a)(1)
DDH 7382	2008	Inactive site in stable condition;	Artesian (grey liquid flowing up from around base of casing)	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020

<sup>4</sup> Baseline water levels: Sulfate – PLP seeps, mean (10 mg/L); Copper – PLP seeps, mean (4 ug/L); Sodium – PLP seeps, mean (2 mg/L); Iron – PLP seep, SP26 (.1 mg/L). *See* Attach. 2, 20.

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
		Fully reclaimed; Monitored		11 AAC 97.200(a)(1)
			Water from drill casing discharging pollutants into nearby wetland	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1) <sup>5</sup>
			Contaminated sediment (base of drill casing: Alkaline (pH 9.8) Sodium present Metals present (Th, U)	MLUP No 6118, Sec. 1a and 10 AS 27.19.020 11 AAC 97.200(a)(1)
			Contamination Water (wetland near drill site), elevated levels <sup>4</sup> of: Copper 215 ug/L Metals present (Al, Fe, Mn, Ca, Cu, Zn, As, Ag, Cd, Ba, Pb)	MLUP No 6118, Sec. 10 AS 27.19.020 11 AAC 97.200(a)(1)
DDH 7392(M)	2008	Abandoned site in stable condition; Fully reclaimed; No action needed	Dead vegetation	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Drill cuttings present, may be flushing from drill hole	MLUP No. 6118, Sec. 1h <sup>1</sup> AS 27.19.020 11 AAC 97.200(a)(1)
			Acidic soil (field pH 2.9)	MLUP No. 6118, Sec 1a and Sec. 10 AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b) 11 AAC 97.240
			Contaminated soil (base of drill casing), elevated levels <sup>1</sup> of: Sulfate 109-176 mg/L Copper 1,066 mg/kg	MLUP No 6118, Sec. 1a and 10 AS 27.19.020

<sup>5</sup> The discharge of pollutants into a waterbody also raises potential Clean Water Act concerns. See 33 U.S.C. § 1311(a). This letter is only intended to address violations of state law within the enforcement authority of DNR that were identified in UTBB's report.

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
			Molybdenum 334 mg/kg	11 AAC 97.200(a)(1)
			Open casing (caps not present)	MLUP No. 6118, Sec. 1g and h
DDH 9475	2010	Active site in stable condition; Fully reclaimed; Monitored	Artesian	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
			Contaminated water (nearby wetland), elevated level <sup>4</sup> of: Sulfate 700 mg/L Sodium 190 mg/L Metals present (Mg, Al, Ca, Mn, As)	MLUP No 6118, Sec. 10 AS 27.19.020 11 AAC 97.200(a)(1)
DDH 11540	2012	Inactive site in stable condition; Fully reclaimed; No action needed	Open casing	MLUP No. 6118, Sec. 1g and h
			Dead vegetation (patchy, not growing at base of casing, trench, or on sumps)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Contaminated soil: Metals present (Al, Fe, Mn)	MLUP No 6118, Sec. 1a and 10 AS 27.19.020 11 AAC 97.200(a)(1)
DDH 12548	2013	Active site in stable condition; Fully reclaimed No action needed	Dead vegetation (widespread, in depressions)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Contaminated soil, (drill waste discharge area), elevated levels <sup>1</sup> of: Sulfate 165 mg/L Copper 655 mg/kg Molybdenum 22 mg/kg	MLUP No 6118, Sec. 1a and 10 AS 27.19.020 11 AAC 97.200(a)(1)
12557	2013	Abandoned site in stable condition;	Dead vegetation (patchy not growing at base of casing, trench, or on sumps)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
		Fully reclaimed; No action required		11 AAC 97.200(a)(1) 11 AAC 97.200(b)
GH05-60	2005	Active site in stable condition; Fully reclaimed; Monitored	Open casing	MLUP No. 6118, Sec. 1g and h
			Dead vegetation	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Drill cuttings present, flushing from drill hole	MLUP No. 6118, Sec. 1h* AS 27.19.020 11 AAC 97.200(a)(1)
			Acidic soil (pH 3.5)	MLUP No. 6118, Sec 1a and Sec. 10 AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b) 11 AAC 97.240
			Contaminated soil (drill cuttings), elevated levels <sup>1</sup> of: Copper 122 mg/kg Molybdenum 21 mg/kg	MLUP No 6118, Sec. 1a and 10 AS 27.19.020 11 AAC 97.200(a)(1)
Between DDH 6348, GH08-111	n/a	n/a	Large area of drilling mud and cuttings	AS 27.19.020 11 AAC 97.200(a)(1)
			Acid soil (field pH 4.3)	MLUP No. 6118, Sec 1a and Sec. 10 AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b) 11 AAC 97.240
			Dead vegetation over wide areas, in depressions	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020



Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
				11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Contaminated soil (drill waste discharges), elevated levels <sup>1</sup> of: Silver 21 mg/kg Arsenic 83 mg/kg Copper 615 mg/kg Molybdenum 163 mg/kg	MLUP No 6118, Sec. 1a and 10 AS 27.19.020 11 AAC 97.200(a)(1)
DDH 3071	2003	Abandoned site in stable condition; Fully reclaimed; No action required	Dead vegetation (patchy, not growing at base of casing, trench, or on sumps)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 3092	2003	Inactive site in stable condition; Fully reclaimed; No action required	Open casing	MLUP No. 6118, Sec. 1g and h
DDH 4145	2004	Abandoned site in stable condition; Fully reclaimed; No action required	Dead vegetation	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 4232	2004	Abandoned site in stable condition; Fully reclaimed; No action required	Dead vegetation	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Drill cuttings present, flushing from drill hole	MLUP No. 6118, Sec. 1h* AS 27.19.020 11 AAC 97.200(a)(1)
DDH 4291M	2004	Inactive site in stable	Open casing	MLUP No. 6118, Sec. 1g and h

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
		condition; Fully reclaimed; No action required		
DDH 5324	2005	Active site in stable condition; Fully reclaimed; No action required	Open casing	MLUP No. 6118, Sec. 1g and h
			Dead vegetation	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Acid soil (field pH 4.10)	MLUP No. 6118, Sec 1a and Sec. 10 AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b) 11 AAC 97.240
DDH 5326	2005	Active site in stable condition; Fully reclaimed; No action required	Open casing	MLUP No. 6118, Sec. 1g and h
			Dead vegetation	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 6343	2006	Inactive site in stable condition; Fully reclaimed; Monitored	“Seal” was a Ziploc bag duct taped over the top of the casing. These temporary measures are possibly holding back artesian conditions.	MLUP No. 6118, Sec. 1g and h AS 27.19.020 11 AAC 97.200(a)(1)
			Dead vegetation (patchy, not growing at base of casing, trench, or on sumps)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 6349 or 8438	2007	6349 – Abandoned site in stable	Open casing (frost jacked casing and PVC)	MLUP No. 6118, Sec. 1g and h

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
		condition; Fully reclaimed; No action required 8438 – 1E		
DDH 7365	2007	Active site that requires routine maintenance and repairs	Ball valve holding in artesian water	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
DDH 7367	2007	Inactive site in stable condition; Fully reclaimed; No action required	Open casing, no cap	MLUP No. 6118, Sec. 1g and h
DDH 7377	2008	Active site in stable condition; Fully reclaimed; No action required	Short term fix: cap bolted to casing (could be holding back artesian conditions)	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
DDH 7378	2008	Abandoned site in stable condition; Fully reclaimed; No action required	Dead vegetation (patchy, not growing at base of casing, trench, or on sumps), possibly non-native grass	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 7379	2008	Inactive site in stable condition; Fully reclaimed; No action required	Open casing	MLUP No. 6118, Sec. 1g and h
			Artesian (coming from drill casing)	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
DDH 7381	2008	Inactive site in stable condition; Fully	Open casing, cap off	MLUP No. 6118, Sec. 1g and h

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
		reclaimed; No action required		
DDH 7384	2008	Abandoned site in stable condition; Fully reclaimed; No action required	Dead vegetation (over wide areas, in depressions)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 8410	2008	Active site in stable condition; Fully reclaimed; No action required	Short term fix: plug (could be holding back artesian conditions)	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
DDH 8413	2008	Inactive site in stable condition; Fully reclaimed; Monitored	Short term fix: duct tape and spray foam around the cap (could be holding back artesian conditions)	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
DDH 8417	2008	Abandoned site in stable condition; Fully reclaimed; No action required	Dead vegetation (patchy, not growing at base of casing, trench, or on sumps)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 8422	2009	Abandoned site in stable condition; Fully reclaimed; No action required	Non-native grass	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 8423	2009	Inactive site in stable condition; Fully	Short term fix: bolted cap (could be holding back artesian conditions)	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
		reclaimed; Monitored	Dead vegetation	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 8424(M)	2008	Abandoned site in stable condition; Fully reclaimed; No action required	Dead vegetation	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 8441	2009	Inactive site in stable condition; Fully reclaimed; No action required	Open casing	MLUP No. 6118, Sec. 1g and h
			Dead vegetation (patchy, not growing at base of casing, trench, or on sumps)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 9454	2009	Abandoned site in stable condition; Fully reclaimed; No action required	Patches bare of vegetation	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Post down	AS 27.20.031
DDH 9462	2009	Inactive site in stable condition; Fully reclaimed; Monitored	Dead vegetation (patchy, not growing at base of casing, trench, or on sumps), non-native grasses	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 10481	2010	Abandoned site in stable condition; Fully reclaimed; No action required	Dead vegetation	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
DDH 10486	2010	Abandoned site in stable condition; Fully reclaimed; No action required	Dead vegetation (patchy, not growing at base of casing, trench, or on sumps)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Post down	AS 27.20.031
DDH 10498	2010	Abandoned site in stable condition; Fully reclaimed; No action required	Open casing (caps not present),	MLUP No. 6118, Sec. 1g and h
			Dead vegetation (patchy, not growing at base of casing, trench, or on sumps)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Post down	AS 27.20.031
DDH 10502	2010	Abandoned site in stable condition; Fully reclaimed; No action required	Dead vegetation (patchy, not growing at base of casing, trench, or on sumps)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Post down	AS 27.20.031
DDH 11533	2011	Abandoned site in stable condition; Fully reclaimed; No action required	Dead vegetation (patchy, not growing at base of casing, trench or on sumps), non-native grass	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 11535	2011	Active site in stable condition; Fully reclaimed; No action required	Dead vegetation; non-native grass	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
DDH 11526/ 11527	2011	Abandoned site in stable condition; Fully reclaimed; No	Dead vegetation (at sites that appear to have fin cuttings flushed from the drill hole)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
		action required		
DDH 12551	2013	Active site in stable condition; Fully reclaimed; No action required	Dead vegetation (widespread)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
GH06-72	2006	Active site in stable condition; Fully reclaimed; Monitored	Artesian (from drill casing); Marsh, too wet for helicopter to land <sup>5</sup>	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
			Not plugged	MLUP No. 6118, Sec. 1g and h AS 27.19.020
GH07-105	2008	Active site in stable condition; Fully reclaimed; No action required	Cap off	MLUP No. 6118, Sec. 1g and h
			Dead vegetation (patchy, not growing at base of casing, trench, or on sumps)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
GH08-107	2008	Active site in stable condition; Fully reclaimed; No action required	Open casing (caps not present),	MLUP No. 6118, Sec. 1g and h
			PVC tube inside casing frost-jacked	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
GH08-111	2008	Active site in stable condition; Fully reclaimed; No action required	Open casing	MLUP No. 6118, Sec. 1g and h
			Dead vegetation (at sites that appear to have fine cuttings flushed from the drill hole)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
GH08-120	2008	Active site in stable	Open casing	MLUP No. 6118, Sec. 1g and h

Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
		condition; Fully reclaimed; No action required	Artesian, standing water	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
			Inner PVC tube frost-jacked	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
GH10-217	2010	Active site in stable condition; Fully reclaimed; No action required	Dead vegetation (patchy, not growing at base of casing, trench, or on sumps)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
GH11-231	2011	Active site in stable condition; Fully reclaimed; No action required	Cap off casing	MLUP No. 6118, Sec. 1g and h
GH11-254S	2011	Active site in stable condition; Fully reclaimed; No action required	Dead vegetation (patchy, not growing at base of casing, trench, or on sumps)	MLUP No. 6118, Sec. 1b, c, d, and j AS 27.19.020 11 AAC 97.200(a)(1) 11 AAC 97.200(b)
			Casing or PVC pipe inside are frost-jacked	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)
GH11-271	2011	Active site in stable condition; Fully reclaimed; No action required	Open casing	MLUP No. 6118, Sec. 1g and h



Drill Site	Year Reclaimed*	PLP's Current Classification of the Site*	Issues Identified by UTBB Report	Statutory, Regulatory, and Permit Violations
P04-04M	2005	Inactive site in stable condition; Fully reclaimed; No action required	Open casing, cap off	MLUP No. 6118, Sec. 1g and h
P04-2D	2004	Active site in stable condition; Fully reclaimed; No action required	Cap off casing	MLUP No. 6118, Sec. 1g and h
SRK5S	2004	Active site in stable condition; Fully reclaimed; No action required	Casing frost jacked	MUP No. 6118, Sec. 1g, h, and i AS 27.19.020 11 AAC 97.200(a)(1)

PLP has not conducted any exploration activity since 2013. *See* Attach. 3 (Excerpt, 2015 Annual Reclamation Report) (“no new exploration has occurred since fall 2013”). In PLP’s 2013, 2014, and 2015 reclamation reports, the company identified that there were zero acres left to be reclaimed on site. *See* Attach. 4 (2013, 2014, and 2015 Annual Reclamation Statements). PLP has also assured its investors that the company has “no material restoration, rehabilitation and environmental obligations as the disturbance to date is immaterial.” *See* Attach. 5 (Excerpt, Northern Dynasty Minerals Ltd. Consolidated Financial Statements for years ended December 31, 2015, 2014, and 2013). Yet, UTBB’s report demonstrates just the opposite. There continue to be problems at the site, many of which were not identified by PLP. UTBB’s inspection demonstrates that DNR cannot rely on PLP’s self-reporting and that PLP is not meeting the requirements of its permit or state law.

DNR is the regulatory agency that has the obligation to protect the State’s land. AS 38.05.035(a)(2), (7); 11 AAC 96.005. It is DNR’s responsibility to require PLP to comply with the reclamation standards and requirements in AS 27.19 and 11 AAC 97, the basic safety requirements in AS 27.20, and the general provisions in 11 AAC 96 governing MLUPs.

In light of the multiple pages of documented permit violations, DNR should require PLP “to begin remediation and provide security under 11 AAC 96.060 to complete the remediation *before receiving the new authorization.*” 11 AAC 96.145(b) (emphasis added). Remediation should include immediately fixing those issues that can be addressed before the end of the year,

for example fixing down posts, capping drill sites with broken or missing caps, and addressing artesian conditions. Some of the problems identified above cannot be fixed before PLP's current permit expires, for example acidic soil, dead or patchy vegetation, and contaminated water. For these violations that require longer-term remediation, DNR should require PLP to develop a work plan that includes addressing the issues identified by UTBB's report, in addition to the problems flagged by DNR during the summer field inspection. This work plan should be in place and DNR should have a performance guarantee under 11 AAC 96.060 in hand *before* PLP is granted a new permit. PLP's new permit should be conditioned on complying with the detailed work plan designed to address these violations. Considering the documented permit violations, taking these actions is entirely reasonable and well within DNR's legal authority.

Nunamta requests that DNR, regardless of whether the agency decides to take action on these permit violations, please respond to this letter informing Nunamta of DNR's decision. Thank you for considering this information.

Sincerely,



Michelle Sinnott  
Staff Attorney  
Trustees for Alaska  
907-433-2011

**Cc**

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