



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Environmental
Conservation

DIVISION OF AIR QUALITY
Air Permits Program

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December 5, 2024

Enric Fernandez, Interim General Manager
Donlin Gold LLC
2525 C Street Suite 450
Anchorage, AK 99503

Subject: PSD Permit and Approval to Construct – Extension Request dated October 25, 2024 for Donlin Gold LLC’s Donlin Gold Project, Air Quality Control Construction Permit AQ0934CPT02

Dear Mr. Fernandez:

The Alaska Department of Environmental Conservation (the Department, or ADEC) received a request from Donlin Gold LLC (Donlin) for an extension to the deadline for commencing construction of the Donlin Gold Project (DGP) in a letter dated October 25, 2024. In accordance with 40 CFR 52.21(r), AS 46.14, and 18 AAC 50, of the Prevention of Significant Deterioration (PSD) rules, Donlin was required to commence construction within 18 months after issuance Construction Permit AQ0934CPT02. Since the PSD permit was issued on July 1, 2023, the latest date for commencing construction would have been January 1, 2025.

After reviewing EPA’s Memorandum dated January 31, 2014, titled “Guidance on Extension of PSD Permits under 40 C.F.R. 52.21(r)(2)” (Extension Memorandum), and in accordance with 40 C.F.R. 52.21(r)(2), a Permittee’s PSD permit extension request should include a detailed justification of why the source cannot commence construction within the initial 18-month period. Relevant justification could include ongoing litigation over the PSD permit, natural disasters that directly affect the facility, significant or unusual economic impediments (including inability to secure financial resources necessary to commence construction), and/or delays in obtaining other required permits. The Department must evaluate the extension request on a case-by-case basis.

Donlin is requesting an extension because the DGP is located in a remote region of Alaska, and the project is a large undertaking that involves the permitting of a power plant, mine site and support facilities, including a port and access road, and a 315-mile natural gas pipeline. In its extension request letter, Donlin notes that the DGP has made substantial progress to secure the required federal and state permits. This list includes: completion of a NEPA review; a water discharge permit from ADEC; a pipeline permit from the US Department of Transportation Pipeline and Hazardous Material Safety Administration; an ADEC Clean Water Act (CWA) Section 401 certificate of reasonable assurance; the first Joint Record Decision (JROD); a CWA Section 404 and River and Harbors ACT Section 10 permit from the US Army Corps of Engineers; a Right-of-Way (ROW) grant from the Bureau of Land Management (BLM); 12 (twelve) Title 16 permits for the mine site, access road, and port from the Alaska Department of Fish and Game; a Waste Management Permit for the mine and associated facilities from ADEC; a Reclamation Plan

Approval and Approval of Financial Assurance from the Alaska Department of Natural Resources (ADNR); a ROW lease from ADNR State Pipeline Coordinators Office; a series of limited entry authorizations from ADNR for fiber optic cable ROW, the port facility on the Kuskokwim River, private access road, airstrip, and seven material sites on state land near the transportation facilities; 12 water rights for the mine and Jungjuk (Angyaruaq) port facility; and two land entry authorizations from ADNR for the establishment of public access around the mine site core operating area, which is necessary to enact the Public Access Control Plan.

Donlin requests extra time to commence construction under the PSD rules because there are still outstanding permits and authorizations needed before the Donlin Gold Board of Directors will issue a construction decision for the DGP. These additional permits and authorizations include public easements from the Kuskokwim Corporation and Calista issued to ADNR and BLM, which will allow ADNR and BLM to temporarily close and terminate public access within the mine site core operating area so Donlin can enact its Public Access Control Plan; as well as Dam Safety Approval to Construct Certificates for seven proposed jurisdictional dams from ADNR Water Resources Division.

Additionally, Donlin is working to resolve ongoing appeals of permits and other authorizations issued for the DGP. These permits and authorization include: ADNR Pipeline ROW appeal, which has been appealed to the Alaska Supreme Court; Water Rights appeal, which has been appealed to the Alaska Supreme Court; CWA Section 401 certificate appeal, which has been appealed to the Alaska Supreme Court; and federal litigation that is ongoing for the Environmental Impact Statement, JROD, CWA Section 404 and Rivers and Harbors Act Section 10 permit, and the Pipeline ROW Grant. Therefore, Donlin is requesting the date for commencing construction be extended an additional 18 months to July 1, 2026.

In the absence of regulations or guidance specifically addressing PSD permit amendments, the regulatory definitions of Best Available Control Technology (BACT) and the information requirements for PSD permits suggest that permit issuers must evaluate proposed PSD permit amendments on a case-by-case basis to determine whether new information relating to the BACT analysis underlying the original permit warrants revisiting that analysis because such information is “necessary” to ensure that BACT will be applied.

While the New Source Review Manual does not specifically address PSD permit modifications, the manual’s methodology for BACT analysis suggests principles which permit issuers may use on a case-by-case basis in evaluating whether revisiting a BACT analysis is required in the context of a proposed PSD permit amendment. Donlin did not address BACT in their extension request letter. However, the aforementioned EPA guidance states that a review or redo of substantive permit analyses such as BACT, air quality impacts analysis or PSD increment consumption analyses should generally not be necessary for a first permit extension request.

EPA guidance indicates that extension requests should be made for 18-month intervals as PSD decisions and the associated control devices may change. Therefore, the Department is granting an 18-month extension to the deadline for commencing construction because no reanalysis of substantive conditions of the permits needs to be conducted at this time. This extension requires that construction of the DGP commence no later than **July 1, 2026**. Donlin may request an additional 18-month extension prior to July 1, 2026. The Department may require a revised BACT analysis and/or a revised ambient air quality standards/increment demonstration in order to approve an extension at that time. The Department is not requiring a public comment period since this is a decision to extend the deadline for commencing construction without any changes to the permit.

A person authorized under a provision of 18 AAC 15 may request an informal review of a contested decision by the Division Director in accordance with 18 AAC 15.185 and/or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. See DEC's "Appeal a DEC Decision" web page <https://dec.alaska.gov/commish/review-guidance/> for access to the required forms and guidance on the appeal process. Please provide a courtesy copy of the adjudicatory hearing request in an electronic format to the parties required to be served under 18 AAC 15.200.

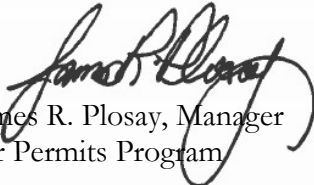
Informal review requests must be made not later than 20 days after issuance of this construction permit extension approval. The request may be made by mail, or electronic mail to the Air Quality Division Director. If mailed via the U.S. Postal Service use PO Box 111800, Juneau, Alaska 99811-1800, or via another mail carrier (e.g., UPS, FedEx, DHL) use 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801. If emailed use DEC.AQ.airreports@alaska.gov.

Adjudicatory hearing requests must be delivered to the Commissioner of the Department of Environmental Conservation, either via the U.S. Postal Service to PO Box 111800, Juneau, Alaska 99811-1800, or by any other mail carrier to 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801, within 30 days of issuance of this construction permit extension approval. If a hearing is not requested within 30 days, the right to appeal is waived. If a hearing is granted, it will be limited to the issues related to this permit decision. You are reminded that even if a request for an adjudicatory hearing has been granted, all permit terms and conditions remain in full force and effect.

Please note that Alaska's air quality statutes, regulations, and permit application information can be obtained from the department's web page at the following address: <http://dec.alaska.gov/air/air-permit>.

If you have any further questions, please feel free to contact the undersigned or Mr. Dave Jones of my staff at 907-465-5122, or dave.jones2@alaska.gov.

Sincerely,



James R. Plosay, Manager
Air Permits Program

cc: Grace Germain, ADEC/APP, Juneau
Dylan Morrison, ADEC/ACP, Anchorage
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P. Moses Coss, ADEC/APP, Fairbanks
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