

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

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May 3, 2000

RECEIVED

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DEPT. OF ENVIRONMENTAL
CONSERVATION
NRO

Dr. Derrick Leedy
P.O. Box 1164
Nome, AK 99762

Dear Mr. Leedy:

I appreciate receiving your letter outlining concerns about water quality and fish habitat degradation in Anvil and Dexter creeks located near Nome, Alaska. I understand you believe two current placer mining operations on Anvil Creek and one former operation on Dexter Creek are responsible for poor water quality documented by you and others in 1998 and again in 1999. You requested the Alaska Department of Fish and Game (ADF&G) deny permits to both current operators this year and pursue criminal convictions under AS 16.05.870 for purported permit violations.

Staff confirm there is a long history of water quality and permit compliance issues with both existing and previous placer mine operations on Dexter and Anvil creeks. In an effort to address these concerns, ADF&G and the Department of Natural Resources (DNR) have issued a number of administrative directives and/or Notices of Violation over the past decade to several operators working in the watersheds. ADF&G, DNR, the U.S. Environmental Protection Agency (EPA), and the U.S. Army Corps of Engineers (COE) remain in contact and are working to bring these operations into full compliance and to restore water quality and fish habitat. I understand that not all of these efforts have been completely successful to date— as evidenced by your water quality sampling. However, staff inform me that most of the direct point-source discharge concerns have or are being addressed. Our residual concerns are focused on non-point surface runoff and stream channel stability from previously disturbed areas in the watersheds.

As you are aware, Anvil Creek has been mined many times since the turn of the century. Large portions of the watershed remain disturbed. Many of these areas have not been reclaimed because they pre-dated the State's Mining Reclamation Act and subsequent regulations. However, as a condition of permit approval, DNR requires new operators to reclaim historically disturbed areas in their active mine footprint. With time, we hope this will reduce chronic non-point sources of pollution.

Regarding permit non-compliance, staff confirm that there have been several instances of settling pond blow-outs and other point source pollutant discharges which were not authorized under ADF&G, DNR, EPA, or COE authorizations. Most of these occurred because of poor placement of settling ponds in the stream floodplain, high spring or fall flood flows, and inadequate diversion of surface runoff away from

the active mine cut. Under directives from ADF&G and DNR, operators have begun correcting these deficiencies.

Under AS 16.05.870, ADF&G could pursue criminal complaints for all documented point source discharges into Anvil and Dexter creeks exceeding Alaska's Water Quality Standards. Nonetheless, one of the factors we have to consider is whether direct legal action is best or whether alternative administrative approaches will better protect and restore the environment. In other words, while the courts may hand down a criminal conviction, that does not directly restore fish habitat in the waterbody. Separate civil action is required to declare the mining operation a public nuisance subject to abatement.

The enforcement approach we are following is to work with the permittee and other state and federal agencies to remedy permit non-compliance and restore impacted aquatic habitats. We chose this approach because there is no other financially responsible party to repair the watersheds. The State is not funded to repair these damages itself. In our opinion, if we force the existing operators out of business, no one will be left to reclaim the mining claims. Rest assured, however, that we reserve the right to seek criminal conviction if the permittee fails to implement administrative-directed actions. There is no statute of limitation under AS 16.05.870-16.05.900.

You indicated that you submitted a Section 303(d) Impaired Waterbodies nomination to the Alaska Department of Environmental Conservation (DEC) for inclusion in the statewide listing. Should DEC choose to include this nomination in its statewide list, we are prepared to work with you, the City of Nome, affected industries, and other state and federal resource agencies to develop watershed recovery plans.

ADF&G will continue its work with regulatory counterparts, the City of Nome, and concerned citizens to resolve water quality and fish habitat concerns in Anvil and Dexter creeks. While I realize this may feel like an unduly long and slow process, we believe progress is being made. Please continue to work with our Commercial Fisheries and Habitat and Restoration divisions to share concerns and propose solutions where you can. I also encourage you to continue to serve on the City of Nome's Watershed Task Force to address municipal water supply issues.

Sincerely,



Robert G. Bosworth
Deputy Commissioner

cc: Bob Loeffler, ADNR, Anchorage
Pete McGee, ADEC, Fairbanks
Mac McLean, ADF&G, Fairbanks
Charlie Lean, ADF&G, Nome
Fred DeCicco, ADF&G, Fairbanks
Don Kohler, ACOE, Anchorage

Kenton Taylor, ADF&G, Juneau
Al Ott, ADF&G, Fairbanks
Tom Kron, ADF&G, Anchorage
Mac Minard, ADF&G, Fairbanks
Cindi Godsey, EPA, Anchorage
Randy Romanesko, City of Nome

Grant, Drew

From: Johnson, Lee [FAIRBANKS/ADEC/LJohnson]
Sent: Wednesday, April 29, 1998 1:59 PM
To: Grant, Drew
Cc: Johnson, Lee
Subject: RE: Anvil and Dexter Creeks -- Nome

Not knowing the definition of 'impaired' I cannot state whether it is or is not impaired. I do know that from a drinking water stand point one of the concerns from mining activity is due to the possible impacts to the quantity of water available rather than its quality. We (drinking water regulations) do not yet regulate the quality of the source water or its protection but rather only the quality of the treated water. Nome is in the early stages of planning for the development of a different source of drinking water.

Lee

From: Grant, Drew
To: Johnson, Lee
Cc: Ash, Amy
Subject: RE: Anvil and Dexter Creeks--Nome
Date: Wednesday, April 29, 1998 1:36PM

Thanks Lee for the info - I'm a lot smarter today than yesterday. So, from any first or second hand knowledge that you may have of the creeks, there is no "impairment"??

-----Original Message-----

From: Johnson, Lee
Sent: Wednesday, April 29, 1998 8:36 AM
To: Grant, Drew
Cc: Ash, Amy; Johnson, Lee
Subject: RE: Anvil and Dexter Creeks--Nome

DNR/DGGS published a study on the recharge area for Moonlight Springs in 1992 (J. A. Munter). Based on that study Anvil Creek is not included in the primary recharge area or in the secondary recharge area. The map does not have Dexter Creek labeled but I believe it may be in the secondary recharge area. Dexter Creek is certainly not in the primary recharge area. The report has very limited data on a few WQ parameters for Anvil Creek and none for Dexter Creek. Let me know if you need more information. 451-2179

Lee

From: Grant, Drew
To: Ash, Amy; 'McLean, `Mac'—DFG/FBKS'; Johnson, Lee
Subject: Anvil and Dexter Creeks--Nome
Date: Tuesday, April 28, 1998 4:57PM
Priority: High

Hi Mac, Amy, Lee - can any of you help me out a little here (I know Mac can because you apparently have looked at these two creeks on the ground)....? but during our solicitation for water quality information and nominations of impaired (303(d)) waters I received a phone call and a letter from a "Derrick Leedy" of Nome reporting water quality problems from mining activity surrounding the above two creeks.

He says that the primary and secondary recharge area for Moonlight Springs (DW source) is now being mined.

Are you aware of any of this? Is there any substance to it? this guy is asking that we take enforcement action....? He urged us to list the waters on our "impaired waterbody" list, but we can't do without some documentation, etc. of persistent exceedances of WQ standards.

I can fax the letter to any/all of you, but if you have info on this please forward.

Thanks for your help - - drew

consult w/ mae melean
ADCSG/Floor

Derrick Leedy
PO Box 1164
Nome, AK 99762

March 4, 1998

Phone (907)443-2800
Fax (907)443-4771

Alaska Department of Environmental Conservation
Division of Air and Water Quality
Attention: Drew Grant
410 Willoughby, Suite 105
Juneau, Alaska 99801-1795

I am writing this letter to make it known that the creeks around Nome, especially Anvil and Dexter Creek do not meet minimal water quality standards because of poor mining practices.

Each spring both creeks are turbid, contain sediments and possibility heavy metals and hydrocarbons. The inspections of the Nome region have been in my opinion neglected by the DEC, because we do not have a DEC office in Nome.

The mining is now encroaching on our water supply for Nome. The primary and secondary recharge areas for Moonlight Springs (our water supply) are now being mined.

The city's water supply is in danger. The utilities are concerned, a few citizens, and the state hydrologist said the situation is "scary".

I have seen the sediments in both creeks in the Spring. Reclamation in both areas is not being done in a timely manner.

Dexter Creek:

The creek empties into the Nome River . . . Our local State fish and game has observed the sediment that occurs each year. This heavy sedimentation could have a negative impact on the local fish population. This has been going on for a few years. I think it is about time that this issue is addressed and not ignored. I have not seen any evidence of reclamation. This lack of adequate reclamation my contribute to the sedimentation. It is known that settling ponds concentrate heavy metals. The settling ponds are within the Moonlight Springs recharge area. The protective layer of tundra has been striped away. This certainly can have a negative effect on the aquifer. In the area there are now very deep pits that are dangerous, especially to people traveling by snowmachine. I feel that it is the

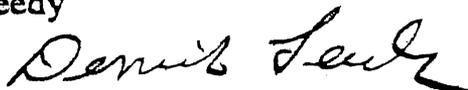
responsibility of the City of Nome to prevent mining or any other activities that could possibly affect our water quality. The well-head area needs to be protected. There attitude is that there has to be absolutely proof that mining has affected our water quality. I feel and I believe the law states that if there is a good possibility that mining may affect water quality that it should be eliminated. The law states that there does not have to be contamination but just the possibility of contamination to the water to have it protected.

Anvil Creek:

There is a mining operation up Anvil creek that is now mining right in the natural fault line that hydrologists say direct the flow of water into the Moonlight springs collection gallery. This operation is dirty. I have seen spilled oil and have given pictures of it to the DEC about 3 years ago. Our local fish and game have been very concerned about sediments, especially in the spring. This mining operation has diverted the Creek many times and has even moved a major road, the Glacier Creek Road. The movement of the mining operation has increased the danger to Moonlight Springs.

I would like DEC and the Alaska Department of Fish and Game to get involved fully in enforcement concerning mining, protection of our water supply and fish habitat. The City of Nome has no interest in the protection of our natural resources mainly because the problem is outside the City limits. I would encourage the DEC to assist the City of Nome in protecting our water supply. The federal well-head protection statutes my apply in Nome. Please list Anvil and Dexter Creek as a polluted waterbody and implement a waterbody recovery plan.

Derrick Leedy



cc. Alaska Board of Fish and Game
City of Nome, Nome Joint Utilities