

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

DRAFT  
sent HQDT

3-30-00

TONY KNOWLES, GOVERNOR

1255 WEST 8<sup>th</sup> STREET  
JUNEAU, AK 99802-5526  
PHONE: (907) 465-4100  
FAX: (907) 465-3232

March 28, 2000

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, AK. 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 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 have issued a number of administrative directives and/or Notices of Violation over the past decade to several operators working within the watersheds. ADF&G, ADNR, the U.S. Environmental Protection Agency, and the U.S. Army Corps of Engineers 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 within 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 enacting regulations. However, as a condition of permit approval, ADNR requires new operators

to reclaim historically disturbed areas within their active mine footprint. With time, we hope this will reduce chronic non-point sources of pollution.

Regarding permit non-compliance, staff confirms that there have been several instances of settling pond blow-outs and other point source pollutant discharges which were not authorized under ADF&G, ADNR, EPA, or COE authorizations. Most of these occurred because of poor placement of settling ponds within 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 ADNR, 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. Also, consider that while the courts may hand down a criminal conviction, that does not directly restore fish habitat within 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 ADEC for inclusion in the statewide listing. Should ADEC 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,

DRAFT

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

C-6548

## Alaska Department of Fish and Game Habitat and Restoration Division

PO BOX 25526  
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# Fax

<b>To:</b> Al OTT	<b>From:</b> Sara		
<b>From:</b>	<b>Pages (including this page):</b> 5		
<b>Phone:</b>	<b>Date:</b> 2/17/00		
<b>Re:</b> Log Item C16548	<b>CC:</b>		
<input type="checkbox"/> Urgent	<input type="checkbox"/> For Review	<input type="checkbox"/> Please Comment	<input type="checkbox"/> Please Reply

• **Comments:**

**REQUEST FOR RESPONSE  
HABITAT AND RESTORATION DIVISION**

LOG #: C6548

DATE DUE @ HQ: 2/26 TO C.O.: 2/28

ASSIGNED TO: R3

SIGNATURE BY: Rob. Bosworth

RESPOND DIRECT

CCs TO: \_\_\_\_\_

COORDINATE W/: \_\_\_\_\_

DOC NAME/LOC: \_\_\_\_\_

COMMENTS:

**HQ USE ONLY**

FAX/COPY ( ) DS/SS TO: \_\_\_\_\_

6548

DEPARTMENT OF FISH AND GAME LOG ITEM

RECEIVED  
FEB 14 2000

COMMISSIONER'S OFFICE

ROUTE	INITIAL	COPY	ASSIGNED TO:
<input type="checkbox"/> Commissioner	_____	_____	CO _____
<input checked="" type="checkbox"/> Executive Secty	_____	_____	PCS _____
<input checked="" type="checkbox"/> Deputy Comm	_____	_____	BOARDS _____
<input type="checkbox"/> Deputy Comm/Inst Fish	_____	_____	ADMIN _____
<input type="checkbox"/> Legislative Assist.	_____	_____	CF _____
<input type="checkbox"/> PSC Assistant	_____	_____	H & R <u>  ✓  </u>
<input type="checkbox"/> Fed.Mgt.Res.Coord.	_____	_____	SPORT FISH _____
<input type="checkbox"/> Glacier Bay ProgMgr	_____	_____	SUBSISTENCE _____
			WILDLIFE _____

Permit DEPT. OF FISH & GAME  
COMMISSIONER'S OFFICE  
Itzsch FG-III-0130  
dba APP Mining  
FG-III-0141

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RECOMMEND _____	GOV _____	DUE DATE <u>2/28</u>
REPLY DIRECT _____	COMM _____	DEADLINE _____
COMMENTS _____	DEP COMM <u>  ✓  </u>	Coord w/ _____
	DEP COMM/ (Inst'l Fish) _____	cc: _____

Special Instructions: \_\_\_\_\_

COMMENTS \_\_\_\_\_

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FROM: COMMISSIONER'S OFFICE

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... enforcement and little oversight of their activities. Their settling ponds would routinely blow out, and no one seem to care. Poor mining practices increased their profits.

The attitudes of the residents of Nome have changed and we are now aware that Anvil Creek has been ruined and that the mining is dangerous in our aquifer. In the past many residents of Nome would obtain their drinking water from this creek. In one calculation I did in 1998 there was one ton of sediment going into Anvil Creek every 24 hours when the settling ponds blew out in the Spring.

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FEB 14 2000

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 e-mail leedy@nook.net

2-5-00

Fish Habitat Permit DEPT. OF FISH & GAME  
 COMMISSIONER'S OFFICE

Ms. Betty W. Krutzsch FG-III-0130  
 Mr. Bert Pettigrew dba APP Mining  
 FG-III-0141

Mr. Robert Bosworth  
 Deputy Commissioner of Alaska Department of Fish and Game

Dear Deputy Commissioner,

I have been a concerned citizen and a veterinarian in Nome Alaska since 1977.

For the past 10 years I have seen the gradual yet profound destruction of 2 creeks in the area. They are Dexter and Anvil Creek. I am most concerned with Anvil Creek because of mining activity it continues to deteriorate. Dexter Creek has no active mining at this time.

My first contact in the state concerning the health of the creeks was with a letter of concern directed to ADEC when they had a open public comment period on listing under section 303(d) of the federal Clean Water Act process for water quality limited waterbodies. I requested that the 2 above creeks be listed. Water quality monitoring data clearly exceeded the established criterion of water quality standards. ADFG, EPA and Citizens collected data including water samples and photographs. I have again brought these concerns of contaminated waterbodies to ADEC's attention. The field work has been done and I would like these waters listed and a recovery plan implemented. These creeks especially Anvil Creek are not recovering.

In 1998 myself and ADFG took water samples for water quality. There was positive evidence that the water was contaminated. Many of the samples exceeded 1000 NTU's. Natural conditions for this creek and others in the area have been established. My conclusion is that natural conditions of these creeks should be around 3-5 NTU's even during the spring thaw that occurs around June 1 of each year.

This fall the 2 mining operations have contaminated Anvil Creek again. There is analytical, witnessed, and photographic evidence of this that has recently been brought to the attention of ADFG, in Nome and Fairbanks.

In addition to the contamination the 2 operations have failed to obtain a Watershed Development Permit from the City of Nome and their activities have threatened the security of Nome's Sole Source Aquifer that totally supplies our municipal drinking water.

Both operators have been under tight scrutiny from DNR for years. They only did reclamation when they were threatened with the loss of their leases. In past years the miners felt they could get away with poor mining practices because there was no enforcement and little oversight of their activities. Their settling ponds would routinely blow out, and no one seem to care. Poor mining practices increased their profits.

The attitudes of the residents of Nome have changed and we are now aware that Anvil Creek has been ruined and that the mining is dangerous in our aquifer. In the past many residents of Nome would obtain their drinking water from this creek. In one calculation I did in 1998 there was one ton of sediment going into Anvil Creek every 24 hours when the settling ponds blew out in the Spring.

I went to the City Council this year and informed them of all the past violations of the Alaska Department of Fish and Game's Habitat Permits as well as the local watershed permits. Next, I asked the local district attorney for advice. Then I contacted Ron Sutcliffe on the advice of our local district attorney. Mr. Sutcliffe is in special prosecutions with the State of Alaska in Anchorage. Mr. Sutcliffe encouraged me to provide him with evidence, which I did and the State opened a "file" on the case. He recommended I make these allegations known to the Alaska State Troopers. I provided the Troopers with the evidence of this falls contamination of Anvil Creek.

I also spoke with Cindy Godsey of EPA in Anchorage and she provided me with a report she wrote when she was in Nome with Ryan Hull of DNR in June of 1999. She measured turbidity and arsenic levels of the 2 mining operations.

I understand it is difficult to do field work in Western Alaska especially in a town with a rich mining history. I also understand that the State agencies are more restricted because of cutbacks in their budgets. Many people are just sickened at what had happened to Anvil Creek. Almost all of the fish habitat has been destroyed. People care and we now want it restored to its natural state. The salmon in Nome are just about gone. This massive outflow of sediment in the Spring of each year I feel must have had a negative impact on salmon populations in not only Anvil and Dexter Creek but in the rivers they flow into, the Snake and Nome River respectively.

I also brought this to the attention by written testimony last Spring when the ADFG Board met in Nome. They ~~were~~ concerned enough to write a letter to DNR.

I have worked well with ADFG in Nome and Fairbanks as well as ADEC. I really believe it is time for legal action to be taken.

The "out of town" non-residents miners on Anvil Mountain have ruined Anvil Creek and have gotten away with it for years. We in Nome respect our local miners but these have an attitude of lets get the gold and get out when the gold is gone. They will leave us with an environmental nightmare and unreclaimed land to look at for generations to come.

Deputy Commissioner, could you seriously consider the following recommendations?

Find the people in question in violation of ADFG Habitat Permits and prosecute them to the full extent of the law. Finally do not issue them a ADFG Habitat permit for the year 2000, based on there past history and this years violations. They also have a long history of problems with DNR and EPA, and do not have local (city) permits.

I firmly believe these actions are wanted by the people of Nome and will benefit our fish populations and will make the establishment of a hatchery program more viable. It would also provide additional protection for the sole source aquifer.

With your help the citizens of Nome will be proud of our creeks and it will set a good example for generations to come on how important fish are in this region.

I have a lot of additional evidence of violations that I would like to share with you or your staff if it would be of any additional benefit to prove the violations conclusively.

Respectfully,

Dr. Derrick Leedy

