STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
COMMISSIONER’S FINAL DECISION

RIGHT-OF-WAY LEASE FOR THE DONLIN PIPELINE
ADL 231908

This final decision is intended to complement and update the Commissioner’s Analysis and Proposed Decision dated January 28, 2019.

Proposed Action
On April 9, 2014, Donlin Gold, LLC (Donlin) applied to the State of Alaska, Department of Natural Resources (DNR) for a non-exclusive Alaska Statute (AS) 38.35 right-of-way (ROW) lease for the purpose of constructing and operating a natural gas pipeline from near Beluga to the proposed mine site near Crooked Creek. The Commissioner of DNR, pursuant to AS 38.35.020, proposes to award an AS 38.35 pipeline right-of-way (ROW) lease to Donlin Gold, LLC to construct and operate a natural gas pipeline on approximately 207 miles of State of Alaska lands in southcentral and western Alaska for 30 years, the maximum period allowed by law.

Authority
This decision is issued under the authority of AS 38.35, Right-of-Way Leasing Act.

Public Notices
Application Notice: DNR published notice of the AS 38.35 Right-of-Way application in the Anchorage Daily News (May 14 and 20, 2014), Fairbanks Daily News-Miner (May 14 and 20, 2014), Tundra Drums (May 15, 2014), and Delta Discovery (May 14, 2014). The application was noticed per AS 38.35.070 for 60 days (comment deadline July 14, 2014). Per AS 38.35.200, the public notice solicited objections from an applicant or competing applicant or a person who has a direct financial interest affected by the lease. Several comments were submitted, including requests for public hearings. Hearings were arranged and noticed on September 10, 2014, and held in Bethel (October 13, 2014), McGrath (October 14), Anchorage (October 15), Tyonek (October 16), and Skwentna (January 21, 2015). The comment period for the hearings ended on January 28, 2015.

Application Notice Comments: Issues pertinent to the project from the comments received during the application notice were addressed in the Commissioner’s Analysis and Proposed Decision.

Decision Notice: The Commissioner’s Analysis and Proposed Decision and associated public hearings was public noticed from January 28, 2019 through March 22, 2019. Public hearings were held in the communities of McGrath (February 27), Tyonek (February 28), Bethel (March 4), Aniak (March 6), Anchorage (March 12), and Skwentna (March 13). The notice was posted on the Division website and the State’s public notice website, published in the Anchorage Daily News and Tundra Drums, and sent to post offices and libraries near the project area. Notices were also provided to third party interest holders, government agencies/entities, and Alaska Native Claims Settlement Act (ANCSA) Regional and Village Corporations within the vicinity of the project.
Decision Notice Comments: Eighty-five comments were received in writing, and 18 people spoke at the public hearings during the proposed decision public notice period. These comments, along with DNR’s responses, are summarized in Attachment 1 of this Decision.

Discussion
The comments received expressed concerns about pipeline location, environmental impacts, existing use including subsistence uses, pipeline design, technical capability, financial issues, issues outside the scope of the decision, and comments of support. Additionally, clarification comments were received from State agencies such as the State Historic Preservation Office.

None of the comments received resulted in changes to the published Analysis and Proposed Decision and no substantial changes were made to the published Draft Right-of-Way Lease.

As demonstrated in the proposed decision, Donlin Gold, LLC was determined to be fit, willing, and able to construct, operate, maintain, and terminate the Donlin Pipeline, as proposed in their application. Awarding a pipeline ROW lease for the Donlin Pipeline is consistent with AS 38.35 statutes and with the State’s constitutional goal to responsibly develop the State’s resources by making them available for the maximum use consistent with public interest.

Final Decision
The finding presented has been reviewed and considered. No changes were made to the proposed decision. The case file has been found to be complete and the requirements of all applicable statutes have been satisfied. The proposed action is consistent with constitutional and statutory intent for state land. It is the decision of the Commissioner to approve this action and award the Right-of-Way Lease for the Donlin Pipeline to Donlin Gold, LLC, consistent with the terms and conditions specified in the Commissioner’s Analysis and Proposed Decision for ADL 231908.

Determination
I have reviewed the administrative record of this process. Based on this review, the decision reached in the Commissioner’s Analysis and Proposed Decision is not revised and therefore I find that Donlin Gold, LLC is fit, willing, and able to properly construct, operate, maintain, and terminate the Donlin Pipeline and shall be offered an AS 38.35 ROW lease. This is the final agency determination.

Corri A. Feige
Commissioner
Department of Natural Resources

Attachment 1: Consideration of Comments
Attachment 1
Consideration of Comments

The Alaska Department of Natural Resources (DNR) considered the written comments and public hearing testimony submitted during the public notice period. A summary of the comments received and DNR’s consideration of those comments follows:

Route Alignment and Location of Related Facilities
In evaluating the Donlin pipeline, the state reviewed engineering, environmental, and existing use information. These evaluations and resulting stipulations provide the basis for our decision that Donlin’s preferred route provides a greater degree of resource protection than other alternatives and is, therefore, our permitting preference.

In addition to the review of the pipeline application, the State of Alaska participated as a cooperating agency in the National Environmental Policy Act (NEPA) process. Feedback during NEPA resulted in modifications to the preferred route to minimize overlap and impacts to the Iditarod trail and Dalzell Gorge. The U.S. Army Corps of Engineers (Corps), lead agency of the NEPA process, authorized Donlin’s preferred route based upon the Final Environmental Impact Statement, and the Corps and Bureau of Land Management (BLM) issued a joint Record of Decision in August 2018 authorizing the applicant’s route.

- DNR received comments requesting that the pipeline be relocated north of the Alaska Range into low-lying black spruce forests.
  - Reasons included concerns for: wildlife concentrations in this transitional habitat area; delicate vegetation that is slow to regrow; important calving or grazing areas; heavy snowfall and avalanche risks; subsistence and traditional uses along north face of Alaska Range; flooding and scour at headwater streams; and increasing thaw of permafrost in disturbed areas.

The pipeline alignment along the face of the Alaska Range is a fairly direct route from its exit from the range near Farewell westward to the mine site. The alignment in this area is on state, federal, and private (Cook Inlet Region Inc - CIRI) land. Soil conditions along the alignment include discontinuous, or intermittent, permafrost. Soils along the north face of Alaska Range have fewer wetlands and less permafrost than the lowlands in the black spruce forest.

The pipeline is proposed to be buried along most of its length in this area, except for an above-ground fault crossing at approximately pipeline milepost (PLMP) 145 near Farewell. Additionally, above-ground valves are required at intervals of approximately 20 miles, and pipeline indicator markers are required above-ground. Buried pipelines do not generally present an obstruction to animal movement, and should not obstruct grazing, calving, or migrations post construction. Construction is proposed to take place in winter along this stretch of the alignment to minimize impacts to wildlife and fish, as well as to decrease long-term impacts via disturbance of permafrost soils. Final detailed pipeline design will be reviewed prior to issuance of a Notice to Proceed (NTP) to ensure that burial depth is appropriate to protect from scour at headwaters or via avalanche risk. An initial pipeline design using strain-based design has been reviewed by DNR and U.S. Department of Transportation (USDOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) which would be used in areas of discontinuous permafrost.
DNR and project engineers reviewed the proposed pipeline alignment along the Alaska Range in comparison to the lowland black spruce forest. In addition to increasing overall length of the pipeline, an alignment through the black spruce would go through more wetlands and likely more permafrost soils, which increases risks to pipeline integrity for a few reasons. Discontinuous or intermittent permafrost soils contain larger amounts of water and ice; construction through these types of soils increases risk from thaw settlement and frost heave. Clearing through these forested areas exposes more soil to sun, increasing solar heat gain and melting the frozen soils there, increasing thaw settlement. Soils in black spruce forests tend to be highly acidic or acidic, as opposed to the generally neutral pH soils in the transitional zones. External pipeline coatings, applied for corrosion protection, perform best in a neutral environment. Last, the cathodic protection system proposed to protect the pipeline from corrosion works best in non-permafrost soils; the drier, more predictable soil in the transition zone is preferable for a cathodic protection system.

Where possible, it is preferred by pipeline engineers to minimize the length of alignment located in wetlands and permafrost, and the uplands alignment is considered safer for pipeline integrity. Coupled with the temporary nature of surface disturbance (predominantly during the construction phase), DNR determined that the proposed alignment is preferred from a pipeline integrity standpoint.

The right-of-way (ROW) lease includes Exhibit A, Stipulations, which impose a variety of requirements on the lessee for the life of the pipeline. Stipulation 3.7 requires fish and wildlife protections along the pipeline system. For example, Stipulation 3.7.3, Wildlife, requires that the pipeline be maintained to avoid significant alteration of big-game movement; shall minimize disturbance to known brown-bear dens; shall prohibit employees from feeding or attracting wildlife; and shall minimize or avoid animal entrapment in trenches and minimize barriers to animal movement caused by pipe stringing.

Restoration and revegetation of disturbed areas, and stabilization, rehabilitation, and reclamation will be required following construction, and must be continued until an area is stabilized to the satisfaction of the Commissioner. Plans regarding these processes are required by stipulation 2.2 of the ROW lease and must be reviewed and approved by DNR prior to the start of any construction activities. Staff will perform inspections and oversight during and following construction and operation to ensure compliance with lease conditions and stipulations.

- **DNR received comments about the location of the pipeline near Little Mount Susitna and Wolverine Creek.**
  - *Specific comments noted this is a steep, narrow valley with numerous coal seams, and that it is an important watershed area for several fish species. An additional comment was made that the description of the ROW location in this area is vague.*
  - *Concerns about this location also included deep snowfall and steep slopes that could threaten pipeline.*

The pipeline design is intended to withstand local conditions. Snowfall and steep slopes along Wolverine Creek will make for challenging construction conditions but once buried the pipeline should be protected from impacts on the surface. Design of the pipeline must meet State review and Federal standards. Maps of the proposed pipeline ROW are available in the Donlin application package and viewable online in DNR’s Alaska Mapper program under case file ADL 231908.

Construction plans and the Alaska Department of Fish & Game (ADF&G) Title 16 habitat permits will outline steps taken to minimize impacts to fish habitat. Stream crossings will be reviewed and approved by DNR and ADF&G prior to issuance of the Notice to Proceed (NTP) construction approval.
Restoration and revegetation are required by Lease stipulation 3.6 and must be completed to the satisfaction of the Commissioner. Once construction is complete, impacts to the watershed from pipeline activities are expected to be minimal.

- **DNR received comments questioning why the pipeline was not located on the other side of the Alaska Range through Calista Corporation lands.**

Alternative routes for the pipeline and components of the project were considered through the NEPA review. This decision considers those State lands requested in the application.

- **DNR received a comment concerning the pipeline crossing a parcel of privately-owned land.**

After research and consultation with applicant, it was determined that the pipeline alignment is not planned to cross the private parcel. The graphic representation of the alignment inaccurately reflects the alignment crossing the boundary of the private parcel; the alignment will be adjacent to the private property, not crossing it. Property corners would be located prior to construction and the private parcel would be avoided. Additionally, contact information was shared with the applicant and land owner.

- **DNR received comments concerning the protection of remote lands and conveyed remote parcels from increased access created by the pipeline corridor.**
  - Related comments expressed concern that increased access would be used by future development projects.

DNR does not prohibit access by any users to general State lands. Approved infrastructure such as power lines and pipeline rights-of-way can facilitate access to more remote areas. However, no permanent bridge or culvert structures are planned along the alignment, which will still have natural impediments or block points to access along the alignment such as gorges and rivers.

During operations, the pipeline ROW may create a route for ATV or snowmachine traffic. The most likely users of this new route along the ROW would be the residents in the Skwentna, Nikolai, McGrath, and Crooked Creek. Additional users may access the ROW from the improved Farewell airstrip, which will remain in place after pipeline construction, or from construction access roads in the Matanuska-Susitna Borough.

Access by large trucks and heavy equipment traffic during construction, and the cleared ROW itself, may develop or improve small roads or trails. These may in turn enable development of adjacent areas for a variety of authorized uses, such as mining or timber sales. The State reserves the right to issue authorizations on State lands for the development of resources in the interests of all Alaskans.

The pipeline would not remove any acreage from use for recreational or subsistence opportunities.

- **DNR received a comment stating that the pipeline should be moved closer to Upper Kuskokwim communities to make tie-ins more feasible.**

The proposed pipeline location was reviewed and modified during NEPA review. Moving the pipeline would increase the lands and wetlands impacted. The primary purpose of this pipeline is to provide fuel for power generation at the Donlin Gold Mine. While agreements may be entered into that allow communities to tie into the pipeline, it is not Donlin Gold's responsibility to build or re-route their pipeline to accommodate closer gas supply to surrounding communities.

Donlin is not required to connect to other communities but is required to provide connection should an entity have a viable project to tie-in, as a condition of their contract carrier status. Their pipeline is
oversized in comparison to their needs, to allow for potential future connections. The pipeline design has a capacity of 73 million standard cubic feet per day (mmscfd), but the mine needs an estimated 11.2 billion standard cubic square feet per year (roughly 30.6 mmscfd would supply that quantity).

- **DNR received a comment asking why the decision did not consider the impacts of a new port in Cook Inlet.**

There is not a new Cook Inlet port associated with this pipeline, so it is not considered in the decision.

Donlin anticipates the use of ports with ancillary storage yards including the Port of Anchorage, the Port of Bethel, Beluga Landing, Jungjuik Landing, and barge landings at Kuskokwim East and Kuskokwim West. Some improvements would be required to the existing barge landing at Beluga, which would need to be reviewed and approved by appropriate permitting agencies.

- **DNR received comments about the size and location of various construction facilities.**

  **Material sites:** Material mining is crucial to development projects. Stipulation 2.15 of the ROW lease requires gravel use to comply with appropriate State laws and regulations; and that site boundaries shall be shaped in a manner to blend with surrounding natural land patterns, prevent soil erosion, and minimize damage to vegetation. Materials shall not be taken from streambeds, riverbeds, lakeshores, or outlets of lakes, unless approved by the Commissioner. Additionally, the lessee is required by stipulation 2.2 of the ROW lease to create reclamations and restoration construction plans, and by stipulation 3.6 to complete restoration and revegetation of all disturbed areas to the satisfaction of the Commissioner.

  DNR reviews and approves reclamations plans for all material mining, including sand and gravel extraction, in accordance with Alaska Statute (AS) 27.19. Pursuant to AS 27.19 and 11 Alaska Administrative Code (AAC) 97, mining operations must be conducted in a manner that prevents unnecessary and undue degradation of land and water resources, and the mining operation shall be reclaimed as contemporaneously as practicable. Revegetation is expected to be achieved, where feasible, within five years after the reclamations is completed. A reclamations plan consistent with the requirements outlined in 11 AAC 97.310, must be approved prior to operations and a reclamations bond will be held until reclamations has been completed to the satisfaction of the Commissioner.

  **Airstrips:** Location of proposed airstrips will continue to be reviewed by the company and the State as designs and construction plans are finalized. Proximity of existing airstrips to Donlin’s proposed route must also be considered; in some cases, the additional distance from an existing airstrip is prohibitive to its use. Suggestions to use existing airstrips rather than developing new sites have been shared with Donlin for their review. The temporary construction airstrips or improved existing airstrips must be large enough to accept large supply aircraft, but new airstrips would be removed post-construction.

  The intention is to make airstrips inaccessible following construction. This could include using techniques such as the installation of large boulders or planting of larger vegetation. The airstrips will not be maintained or cleared post-construction. Revegetation of airstrips and other ancillary facilities must be completed to the satisfaction of the Commissioner.

  **Construction camps:** Location and size of ancillary facilities are still under final development and will be reviewed by the company and the State as designs and construction plans are finalized. Facilities must be large enough to safely handle crews and equipment needed for construction but will be stabilized and revegetated post-construction.
**Water and sewage facilities:** Construction plans for the camps required by the ROW lease include plans for comprehensive waste management and hazardous materials and substances management. Additional permits from agencies such as the Alaska Department of Environmental Conservation (ADEC) must also be obtained prior to construction; condition 17 of the ROW lease requires a lessee to obtain all required Federal, State, and municipal permits and authorizations for activities prior to the activities occurring.

**Fuel storage:** Concerns were stated regarding the quantities of fuel to be stored during construction. Fuel storage must comply with State law. Several measures apply to protection of the land from risks of fuel spills. In addition to complying with ADEC regulations for fuel handling, stipulation 3.2.6 of the ROW lease prohibits fuel storage or refueling within 100 feet of waterbodies. Donlin must prepare a plan for the handling of Hazardous Materials and Substances (stipulation 2.2) and must report any spills or discharges of hazardous materials to DNR. Industry practice calls for spill containment equal to 110% of the fuel being stored.

- **DNR received a comment expressing concern about the amount of gravel that will be left in wetlands which would be costly to mitigate and still leave scars.**

Modern techniques can minimize impacts to disturbed areas. Reclamation must be completed at the lessee’s expense to the satisfaction of the Commissioner. The most common method for crossing wetlands would be winter construction, which minimizes the need for gravel fill by using ice or snow roads to the greatest extent possible. Summer crossings may require using a gravel fill workpad or using a temporary workpad over geotextile, or other method of separation that would supplement the pad. Fill used during summer construction would employ mats to separate fill from vegetation, which could then be removed after construction.

- **DNR received comments about indirect impacts to private parcels near the alignment.**

Rights-of-way located on public lands owned by the State of Alaska may impact viewsheds of adjacent or nearby parcels. Impacts to scenic aspects are not considered incompatible uses of State lands.

- **DNR received comments stating that DNR did not sufficiently consult with several affected parties.**

DNR notice requirements for pipeline ROW leases are outlined under AS 38.35. Donlin submitted their application for a pipeline ROW lease in April of 2014, which was public noticed on May 14, 15, and 20, 2014. Public requests instigated five public hearings about the application in nearby communities in 2014 and 2015. Public notice of the hearing dates was done on September 10 and 11, 2014. Issuance of the preliminary decision in 2019 included an additional six public hearings and a 53-day comment period noticed on January 28, 2019. Public comments and inquiries were accepted throughout the review process.

As a private entity, Donlin can meet and consult with the public at their discretion. Individual or community requests for meetings can be submitted to Donlin via their website at [https://www.donlingold.com](https://www.donlingold.com). Donlin’s public outreach has been ongoing since at least 2011.

**Commercial Guiding:** Notification to nearby third-party interests was done by mail and public notice to the general public was conducted via newspapers, post offices, libraries, and State online public notice webpages.

**Local Communities:** Donlin has been conducting public outreach since at least 2011. In addition to notification of nearby third-party interests and public notice to the general public, public hearings were
held during the notice of application and then again during the notice of the analysis and proposed decision (“Proposed Decision”). Public hearings were conducted the communities of Tyonek, Skwentna, McGrath, Bethel, Anchorage, and Aniak. Opportunities for meaningful engagement were provided through public notice, comment periods, and public hearings where appropriate. Additionally, Donlin and DNR participated in the federal NEPA process which involved many public scoping meetings between 2011 and 2018.

*Tribal Entities:* DNR notification of nearby third-party interests, including affected tribal entities and public notice to the general public was conducted. State law requires that agencies undertake an open public process that treats all interested parties equally. Commissioner Feige reviewed requests by tribal entities for additional consultation and noted that opportunities for meaningful engagement were provided through public notice and comment periods where appropriate.

*Matanuska-Susitna Borough:* After review, Commissioner Feige declined requests for a 60-day extension of the public notice. Public notice of the Proposed Decision was posted on January 28, 2019 and the Matanuska-Susitna Borough Planning Office was a recipient of a courtesy notice sent at that time. The standard public notice period for such a decision is 30 days, but DNR set the comment period for 53 days to facilitate six public hearings. The Commissioner deemed the duration of the notice and the opportunity to comment to be sufficient.

- DNR received comments requesting inclusion in the Third-Party Interests Plan.

These requests, including contact information, have been shared with Donlin Gold LLC.

- DNR received a comment expressing concern about the pipe delivery plans for the first 51 miles of pipeline. DNR received a comment proposing that it would be better to barge materials and equipment up the Susitna River to Susitna Station or via an ice road along the Pt. MacKenzie pipeline corridor. From the Susitna River, the commenter suggested using the Iditarod National Historic Trail for 14 miles.

Susitna Station is approximately 11 miles east of the nearest Donlin pipeline location, and approximately 18 miles south of Donlin’s currently proposed supply routes. Port MacKenzie is approximately 30 miles east of the Donlin pipeline origin. Although Donlin may consider these alternative locations for transporting supplies, they will have to weigh several factors, including the distances and topography that would be crossed, if they chose these locations.

During consultation, interested parties related to the INHT requested minimizing impacts to the historic trail. Although additional supply routes may be considered by Donlin as they apply for temporary Land Use Permits, reducing impacts to the Iditarod is likely to remain a priority.

For any route to transport supplies from outside of the ROW corridor, Donlin is expected to continue consultation with communities and the Matanuska-Susitna Borough as they finalize their plans. Consideration of sensitive habitat such as in the area of Mount Susitna will be given during review of construction plans.

**Environmental Concerns**
Several comments were received relating to environmental impacts from the proposed pipeline project.

The lease addresses restoration, rehabilitation, and revegetation of the leasehold and liability to the State for damages or injury incurred by the State caused by Pipeline Activities. The standard for restoration is “to the condition ordered by the Commissioner” (lease condition 28 (c)(2)). By using that standard,
advances over the life of the lease in technology and understanding of the ecosystems and environment may be incorporated and applied. To lock in specific procedures at this time might prevent the State from being able to take advantage of such advances at the time restoration, rehabilitation, and revegetation are undertaken.

The State’s ability to require Donlin to restore the affected land is adequately protected through right-of-way lease Sections 8(o), 8(p), 13, 14, 28(c)(2), 29(d)(2), 29(h), and lease Stipulation 3.6.

- **DNR received comments expressing concern about global climate change.**

The Right-of-Way Leasing Act (AS 38.35) does not address climate change, but the NEPA process considered climate change by summarizing existing conditions and expected effects for the overall Donlin project, including the natural gas pipeline.

Issues relating to pipeline safety and integrity of the pipeline were reviewed by DNR engineers, including the PHMSA Special Permit for strain-based design which is intended to address large differential settlement as a result of thawing permafrost. Engineering design for thaw subsidence is well understood and arctic structures have demonstrated that these design approaches are acceptable. The pipeline design and route selection minimize the likelihood of a natural gas leak, and the leak detection and shutdown systems will minimize the volume of gas released if a leak were to occur. The use of natural gas for the project is in part to reduce overall impacts by using a “cleaner” fuel that can produce sufficient energy for the mine site needs. Risks to the pipeline from a changing climate are mitigated by design and construction intended to produce the most stable pipeline bed. Natural gas in the pipeline will be ambient temperature and should have less impact on nearby soil temperatures than fuels that would need to be heated, such as oil or diesel.

- **DNR received comments indicating concern about the spread of invasive species.**
  - Specific comments included information about current elodea infestations in Sucker Lake and Alexander Lake, and spruce bark beetle infestations in the Susitna Valley.
  - Additional comments included requests for information about provisions for monitoring of the Invasive Species Management Plan, and concerns about the use of native species not currently in the specific habitat location.

DNR and Donlin share concerns about invasive species such as elodea. Donlin has committed to creating and following an invasive species plan. The Invasive Species Management Plan, required by Stipulation 2.2 of the ROW lease, has been drafted but will need final review and approval by DNR prior to issuance of a Notice to Proceed for construction. The plan lists known noxious weeds, and includes plans to inventory, identify, prevent, mitigate, control, and monitor invasive species. Donlin will be responsible for revegetation and rehabilitation to the satisfaction of the Commissioner and must continue field inspections throughout construction and pipeline operations.

The ROW lease also requires a Timber Clearing, Salvage, and Utilization Plan, which must include practices to minimize the spread of destructive forest insects and reduce the risk of wildfire, following Division of Forestry regulations including but not limited to 11 AAC 95.195 and 11 AAC 95.370. Clearing of spruce trees is addressed in 11 AAC 95.195, with guidelines on required tree removal practices. Slash removal regulations in 11 AAC 95.370 require that if operating in a potential or known bark beetle infestation area, an operator shall include a spruce slash reduction, isolation, or abatement plan in the detailed plan of operations.
Final plans and details for the Invasive Species Management Plan are still in development by Donlin but will be reviewed prior to permission to construct is granted by state and federal agencies.

- **DNR received comments about the anticipated water extraction needs.**
  - Specific comments included concern that kettle lakes would be drained for water use needs, and that the kettle lakes are frozen in winter so would be a poor water supply.

Water extraction will be examined on a site-specific basis prior to construction. DNR water withdrawal guidelines used when reviewing temporary water use applications require, among other things, that total combined water and ice aggregate withdrawal/removal shall not exceed twenty percent of the total volume for any lake. To determine this, volume calculations for waterbodies are required as part of the water use application process. Water use from lakes that contain fish would require a fish habitat permit from ADF&G and the temporary water use authorization. Applicants must provide water use activity chart for the whole project for a given water use application.

Water discharge will be performed with clean (tested) water and using techniques that dissipate the energy of the discharge.

- **DNR received comments concerning who would clean up the damage that will be done.**

Damages caused during construction must be stabilized and remediated by Donlin to the satisfaction of the Commissioner. The lease allows the State to perform repairs at the expense of the lessee if they do not undertake required repairs. To prevent damages, PHMSA regulations and the DNR lease require that the pipeline must undergo regular pipeline integrity inspections. Detection systems at origin, termination, and along the pipeline monitor for changes in pressure or flow that would indicate a leak or other damage. The detection systems would respond to changes in pressure or flow by closing valves quickly in the case of leak or rupture. State and federal agencies will inspect pipeline and records to ensure compliance and safe operations.

In the case of a major spill, leak, or other incident, the company will be required to clean and remediate damage on State land to ADEC and DNR satisfaction. Financial assurances will be required during construction and operations to ensure that financial resources are available as needed, if the company were unable to complete the remediation.

- **DNR received comments about overall impact to habitat and wetlands and expressing doubt about effectiveness of restoration.**
  - Specific comments noted the old seismic lines which are still visible.

Modern techniques can minimize impacts to disturbed areas. Donlin will be required to be in compliance with the all sections and stipulations of the lease including those addressing habitat under Stipulations 3.4 and 3.5, which require consideration of ground conditions, the use of ground protective measures such as tundra mats, and prohibit stockpiling excavated materials in wetlands. Reclamation must be completed at applicant’s expense to the satisfaction of the Commissioner.

- **DNR received comments relating to fire danger.**
  - Specific comments included fear of pipeline explosion either causing a fire or being caused by a fire.

If a pipeline explosion instigates a forest fire, Donlin will first act to protect infrastructure, and will be required to respond to the forest fire. Construction plans required by Stipulation 2.2 include Fire Prevention, Suppression, and Management and Health, Safety, and Emergency Preparedness. Additional
requirements about Fire Prevention and Suppression are outlined in Stipulation 2.9. Division of Forestry regulations 11 AAC 95.400 - 11 AAC 95.490 provide for the protection of forested land from fire.

Buried pipelines are generally protected from fire by the best insulator - earth. The inorganic soils surrounding the buried pipeline serve as a major protection from fire risk. Above-ground facilities would be protected by emergency response crews in the case of fire near their above-ground pipe.

If a pipeline explosion instigates a forest fire, Donlin will first act to protect infrastructure, and then will be required to respond to the forest fire. Stipulation 2.9 requires, “the Lessee shall promptly notify the Commissioner of any fires on, or that may threaten any portion of, the Pipeline or Leasehold and shall take all measures necessary or appropriate for the prevention and suppression of fires in accordance with applicable law and the approved Fire Prevention, Suppression, and Management Plan. The Lessee shall comply with the instructions and directions of the Commissioner concerning the use, prevention, and suppression of fires on State Land.”

- **DNR received comments opposing damage to pristine habitat.**

Construction of the pipeline will change the visual appearance of undeveloped areas. These changes may be temporary or permanent in nature. Vegetation will re-grow along the alignment but like all trails through remote Alaska would be a visual change from prior condition.

Once constructed, the buried pipeline will not generate noise or activity that would disturb the tranquility of the wilderness. Occasional maintenance and clearing activities would be brief and limited in scope.

- **DNR received a comment that landowners do not want to see a pipeline from their private parcels in remote portions of the state.**

Mitigations will be implemented to minimize impacts, including impacts to the viewshed and aesthetics. Stipulation 3.9.3 of the lease requires the lessee to consider aesthetic values in planning, construction, and operation, and the Commissioner may impose conditions such as vegetative buffers as necessary to protect aesthetic values. The State reserves the right to issue authorizations on State lands for the development of resources in the interests of all Alaskans.

**Existing Uses**

AS 38.35.100 requires that the Commissioner consider whether or not the proposed use of the right-of-way will unreasonably conflict with existing uses of the land involving a superior public interest. Existing authorized uses in the vicinity of the right-of-way include commercial recreation authorizations, remote cabin staking areas and subdivision parcels, personal use cabins, easements, public access, grazing leases, mining claims, oil and gas leases, and use of other natural resources. Other uses include subsistence and recreational hunting, fishing, and gathering.

- **DNR received comments expressing concern that the pipeline would impact subsistence resources.**

ADF&G continually assesses use of State fish and wildlife populations. The ADF&G Division of Subsistence has published numerous reports on the subsistence use along the proposed pipeline ROW and has been completing additional reports on subsistence use north of the Alaska Range.

Construction impacts to resources are expected to be short term in nature and not permanent obstructions to any subsistence activities.
Hunting: Base camps for traditional, subsistence, and commercial users would not be obstructed by the buried pipeline. Ongoing use of State lands would not be prohibited or restricted by the pipeline ROW except for short-term restrictions during construction.

During construction, Donlin has requested a nominal 150-foot-wide construction right-of-way for the pipeline trench, equipment access, and transportation. Temporary roads and bridges, or shoofly roads to transport equipment around challenging geography, may be needed during construction. After construction is complete, temporary bridges would be removed, and most of the construction right-of-way would be restored to a vegetated and stable condition. The operations right-of-way would be a nominal 50-foot-wide corridor with no developed access road. During active construction, short-term localized access restrictions may be in place surrounding active work areas. These restrictions could impact local subsistence hunters in those areas during times and locations of active construction. Donlin will consider local uses in establishing construction schedules to the extent possible.

The operations right-of-way must be kept brushed to a condition that can be inspected for pipeline integrity, according to federal code. This could lead to increased access for hunters. Increased access to fish and game resources can benefit individual subsistence, guide, local and non-local hunters, however, it can also increase competition of these resources. Natural obstructions will exist along the pipeline alignment, such as rivers and gorges, that will have a limiting factor on access along the cleared ROW. DNR policy protects the public’s free and unrestricted access to and upon the lands within rights-of-way, unless restricted by the Commissioner.

Fishing: Impacts to fishing resources should be localized, minimal, and primarily limited to the construction phase, which would primarily occur in winter. During operations, the buried pipeline is not anticipated to impact fish streams or aquatic life. The greatest risks during construction are from construction activities that will temporarily disturb stream beds and banks. Revegetation and stabilization are required to follow construction and will be required to be monitored during operations. Risks to waterbodies from horizontal directional drilling (HDD) include the potential for frac-out of non-toxic drilling muds into a water body, which would cause temporary turbidity and increase in sedimentation. Monitoring of HDD activities and response to any frac-out incidents will be required.

Gathering/harvesting: Construction clearing will damage or remove surface vegetation from the pipeline trench and some distance adjacent to it. This damage is severe initially but is short term. The operations ROW width is 50’ and would be allowed to re-vegetate. Berries and other vegetation along the ROW would be available for harvest during the operations of the pipeline, as the ROW is a non-exclusive use of State lands. Clearing along the ROW maintains the height of vegetation on the ROW but does not remove the root system of the vegetation, so plants can grow back. The released areas of the construction ROW not required for the operations ROW will be rehabilitated to the satisfaction of the Commissioner.

- DNR received comments stating that the pipeline would affect subsistence and other users near the Silvertip Camp.

Residents in the Nikolai area noted subsistence use near the Silvertip Camp site (near PLMP 170) in the Alaska Range. The Silvertip permitted site is located on Federal lands, approximately 1 mile south of the proposed pipeline route along Khuchaynik Creek. A nearby Doyon historic site has been identified over a half mile south of the proposed alignment. The northern face of the Alaska Range has been locally and traditionally used for subsistence and commercial harvests. The ROW lease would only apply on State lands.
Base camps for traditional, subsistence and commercial users would not be obstructed by the buried pipeline. Ongoing use of State lands would not be prohibited or restricted by the pipeline ROW in this or other regions except for short-term restrictions during construction.

Construction in this area is planned during the winter and is expected to take two seasons: summer to prepare the area, and winter to install the pipeline. Restoration and stabilization of the corridor will begin as soon as practicable after construction. The current schedule for PLMP 144.4-196.6 is for pipeline installation in the second winter season of pipeline construction.

Operations and maintenance activities along the pipeline would not obstruct local use. Maintenance schedules will be developed as part of the Operations and Maintenance Plan/Manual required by 49 CFR 192 and the maintenance program required by Stipulation 2.4 of the ROW lease.

- **DNR received a comment stating that the Alexander Creek drainage should be treated as a separate region of subsistence use for this project. The drainage is used by residents of Anchorage and the Mat-Su because of its proximity.**

Potential impacts to fish and game and their habitat were evaluated in the Proposed Decision with the assistance of the Alaska Department of Fish & Game. In the review by ADF&G, the Alexander Creek drainage was considered within the category of “Cook Inlet Drainages.” This area falls within Game Management Unit 16B. ADF&G noted minor sport fisheries use within this drainage (in the West Cook Inlet Management Unit). Although the users of the Alexander Creek drainage vary from the subsistence users of other areas, general impacts are expected to be similar across all regions; impacts would be mainly short-term and localized during actual construction. Subsistence use surveys are the jurisdiction of ADF&G Division of Subsistence.

- **DNR received comments expressing concern about impacts to existing commercial hunting, guiding, and tour operations.**

Areas crossed by the ROW alignment are used more heavily during certain seasons for hunting, guiding, and tour operations. Pipeline construction is scheduled predominantly during the winter for most areas (with the exceptions of PLMP 111-144 and PLMP 247-315) and would disrupt surface uses of a specific area for at least one season. Preparatory civil work is expected the prior summer season, and revegetation efforts are anticipated for the following summer season. Aside from possible temporary access restrictions of active construction sites, for safety purposes, the ROW would not be restricted from hunting, guiding, or other use. After construction, the ROW would be un-manned and open for public travel and use unless otherwise restricted by the Commissioner. This temporary disruption is not anticipated to permanently halt guiding or hunting along or near the ROW.

In the areas selected for winter construction, the construction season was largely established to minimize damage to soils and wetlands, in order to minimize impacts to waterbodies and other resources.

Additionally, Stipulation 2.2 of the ROW lease requires that Donlin develop a Third Party Interests plan that will address how they will work with or minimize impacts to affected third parties. Construction activities may require short-term closures of specific areas for safety reasons; after construction and revegetation the ROW would be available year-round.

- **DNR received comments expressing concern that the pipeline would impact local trail users.**

Trail users would continue to be able to pursue non-commercial recreation use of general State land along the ROW alignment. Organized recreational uses such as the Iditarod Trail Sled Dog Race, Iron Dog
Race, and Junior Iditarod Sled Dog Race would be impacted during the construction season of the relevant area. Donlin will be required to develop and follow a Third Party Interests plan as noted in Stipulation 2.2 of the ROW lease, including ensuring that construction will not prohibit known events nor create unsafe conditions for local users where construction may overlap scheduled events.

Donlin will coordinate with Alaska Department of Transportation & Public Facilities (ADOT&PF), DNR Division of Mining, Land and Water Southcentral Regional Land Office (SCRO), and the Matanuska-Susitna Borough about the agencies’ management of public trails and easements as part of the Third Party Interests plan.

- **DNR received a comment noting that the ROW should be subject to section line easements.**

DNR recognizes section line easements as explained on pages 11 and 23 of the Proposed Decision. The ROW does not alter or extinguish the presence of these easements.

**Cultural Resources**

- **DNR received comments concerning the protection of cultural resources.**

Protection of known and unanticipated cultural resources is required by the ROW lease. The means to avoid, minimize, and mitigate impacts to cultural resources were negotiated during the Section 106 consultation process. Donlin has completed a Cultural Resources Management Plan (CRMP) as part of that process, which has been reviewed by consulting parties, and which can be amended as necessary during the life of the project. Methods to protect resources include tagging and avoiding known sites during construction, oversight by an on-site Cultural Resources Specialist (CRS), and removal or documentation of resources.

In the case of finding unexpected discoveries, work at that site will be stopped by the CRS, pending review and response approval by consulting parties. Treatment of identified resources depends on the size, scope, and location of the resource (such as documentation, removal to an approved repository, or avoidance of the resource, as appropriate). Basic response plans are outlined in the CRMP, and site-specific responses will be determined by the CRS and consulting parties.

Archaeological surveys of the proposed alignment did not locate indicators of graveyards along the proposed ROW. Donlin has committed to meeting with local residents to discuss proximity of pipeline to gravesites in the Long Mountain area, and other areas as needed, with the goal of avoiding these important locations. Any human remains discovered at isolated locations along the ROW would be protected in accordance with the procedures spelled out in the CRMP, which were developed during the Section 106 consultation process.

Phase I and Phase II archaeological survey work has been completed on the areas that have the potential to be directly affected by project activities, except for the North Route realignment which will be completed prior to construction. The probability of finding a new major site during construction is low, but not non-existent; the procedures to follow in such a case are outlined in the CRMP.

- **OHA submitted comments that the Cultural Resource section of the decision had several inaccuracies.**
  - The summary of legislation should elaborate that the Alaska Historic Preservation Act (AS 41.35) provides for protection and consideration of historic, prehistoric, and archaeological resources, which includes deposits, structures, ruins, sites, buildings, graves, artifacts, fossils, or other objects of antiquity which provide information
pertaining to the historical or prehistorical culture of people in the state as well as to the natural history of the state.

Supplemental comment acknowledged.

- The cultural resources section only discusses the Iditarod National Historic Trail and does not summarize other significant cultural resources that will be impacted by the pipeline's construction and operation.

Discussion on page 13 of the Proposed Decision covered the INHT, but information on page 24 includes other cultural resources. During Phase I and II archaeological survey work, contractors identified 13 Alaska Heritage Resources Survey sites near or along the proposed pipeline alignment.

- The document lists the Iditarod National Historic Trail as an “Alaskan landmark”. To avoid confusion with National Landmarks and Alaskan Monuments, suggest noting it is an “iconic piece of Alaska’s heritage and culture”.

Distinction acknowledged.

- DNR received comments expressing concern for historic and cultural resources disturbed by the project, with specific concern due to the predominantly winter construction timeframe.

Those cultural resources which have been located through previous surveys will be flagged and monitored during construction, as detailed in the CRMP. The CRS will be on-site during construction to mark and flag areas of avoidance, and to remove flagging after construction activity. The CRS will also monitor during construction in high-potential areas with no previously identified cultural resources and will have the authority and responsibility to stop work and contact consulting parties to determine the best mitigation for any inadvertent discoveries.

- DNR received a comment pointing out that the INHT is not just a trail, but also includes the associated archeological sites and historic structures.

DNR appreciates the clarification and acknowledges the informational distinction and will move forward with this in mind. Though the INHT includes associated archeological sites and historic structures, none are anticipated to be impacted by the pipeline ROW.

- DNR received a comment pointing out that the recent court case Dickson v State clarifies the difference in easements between the RS2477 right-of-way for the historic Iditarod Trail and the State INHT easements.

For the purpose of this decision, the term Iditarod Trail is used as a general name for the system of trails that have been created, used, and authorized in various ways over the years. The Proposed Decision did not clearly outline the variety of authorizations used to approve the trail system, but rather made oblique reference to “several easements for portions of the Iditarod National Historic Trail system” that have been established, including RS2477 trails. DNR appreciates the comment and will move forward with this in mind.
• DNR received a comment with concerns about change of use and visual impacts to the Iditarod trail.

DNR is charged with finding the balance of our constitutional requirements to “provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of the people,” (Alaska Constitution Article VIII, Section 2) and weighs the benefits of development against impacts on viewsheds. Donlin has agreed to mitigation measures which minimize impacts to the Iditarod Trail, and DNR feels that a reasonable balance has been achieved.

Fish and Wildlife

• DNR received a comment stating that the path through Wolverine Creek valley would impact moose population in the summer, and brown and black bears in the winter.

Wolverine Creek Valley is roughly 5 miles east of the proposed pipeline alignment near PLMP 25. The stretch of pipeline near PLMP 25 is proposed for winter construction, with preceding summer civil preparation work. Construction within any given area is expected to occur in a fairly short period of time, with localized impacts to wildlife.

To further minimize impacts to wildlife, there are several wildlife protection stipulations in the lease. For example, Stipulation 3.7.3, Wildlife, requires that the pipeline be maintained to avoid significant alteration of big-game movement; shall minimize disturbance to known brown-bear dens; shall prohibit employees from feeding or attracting wildlife; and shall minimize or avoid animal entrapment in trenches and minimize barriers to animal movement caused by pipe stringing.

• DNR received a comment expressing concern that grass seed used along disturbed areas such as airstrips and pipeline corridor might attract bison to areas.

Any revegetation seeding will most likely be limited to specific erosion-prone areas to establish an initial root base until larger native shrubs can establish. Typically, this is done with an annual seed mixture that will die off in the winter. This is unlikely to support or attract large numbers of herding animals such as bison.

• DNR received a comment stating that the Ottertail study used by Donlin was inadequate.

The Ottertail study was one of multiple sources used during review of affected resources. The Ottertail study cited in Attachment E of the Decision was completed and submitted during the federal NEPA process, of which the State of Alaska was a participant. DNR and ADF&G did not rely solely on the Ottertail study in our determinations of impacted resources.

• DNR received comments stating that the decision’s ADF&G report was inadequate.

The contribution submitted to DNR and included as Attachment E to the Proposed Decision was a summary of relevant expertise on affected resources and is just one component of ADF&G involvement and oversight of fish and wildlife resources. ADF&G is responsible for determining the number, location, and fish species of each waterbody crossed by the proposed pipeline based on information provided by the applicant and/or gathered by the department, and through review of the current Anadromous Waters Catalog. Development of the fish stream list for the Donlin pipeline will be finalized before construction of the pipeline begins and will be continually updated as new information is obtained. ADF&G participates actively in reviews of construction plans and activities for AS 38.35 pipelines and consulted in the drafting of the proposed lease to ensure that fish and wildlife protections were incorporated into lease stipulations. ADF&G has a full-time Habitat Biologist Liaison co-located in
the State Pipeline Coordinator’s Section that is responsible for the review and issuance of habitat permits associated with pipeline activities and has oversight of fish and wildlife resources associated with the ROW. If construction proceeds, ADF&G will also provide extra staff as necessary.

- **DNR received a comment expressing concern about the pipeline’s proximity to mineral licks between PLMP 150 and 220 and animal access to them.**

These mineral licks were identified early in the NEPA process and were determined to be approximately one mile south of the current pipeline alignment. Pipeline construction will not interfere with the mineral licks and any impacts to animal access will be very localized and short term.

- **DNR received comments expressing concern about construction and maintenance activities disturbing Dall sheep around the Alaska range.**

Construction within any given area is expected to occur in a fairly short period of time. The Commissioner reserves the right to restrict Donlin’s activities on State lands during periods of environmental concern, such as breeding or lambing, via lease Stipulation 3.7.4. In preparing their construction schedule, Donlin will need to account for such periods of environmental concern. During construction, Stipulation 3.7.3.4 requires that Donlin shall consider wildlife movement, prevent or minimize animal entrapment in ditches, and minimize barriers to animal movement created by prolonged pipe stringing.

- **DNR received comments expressing concern about how a “spill” (leak) would affect fish, people, and the environment.**

In the case of a natural gas leak, gas will permeate up through soil or water and dissipate.

Donlin is proposing a robust system to monitor and detect for any leaks. In addition, there will be isolation valves at river crossings and regular upland intervals not to exceed 20 miles along the proposed pipeline to limit the amount of natural gas released in the event of a rupture. Since natural gas is lighter-than-air, any leak would be released to the atmosphere and not the land or water. Any effects to fish or the environment would be short term and localized.

In the case of a spill of drilling fluid, fuel, or other products from equipment or camps during construction, the company will be required to clean and remediate any spill to ADEC and DNR satisfaction. Spill response plans are required prior to the State issuing approval to construct. The Alaska Department of Environmental Conservation (ADEC) is the State agency which approves oil spill contingency plans as required under AS 46. Section 17 of the right-of-way lease requires the lessee obtain all applicable federal, state, or local permits and authorizations.

Construction activities will be monitored by company contractors and agency staff, on a schedule yet to be determined.

- **DNR received comments expressing concern about impacts of the pipeline to fish species, such as salmon and sheefish, and about waterbody crossings, both in relation to location and technique.**

  - Specific concerns included risks from spring flooding and scour potentially exposing the pipeline.

Waterbody crossing techniques for construction/installation of the pipeline include open cut trenching, boring, and HDD as appropriate to the circumstances and as approved by DNR and ADF&G. The
technique used at any specific crossing will be reviewed and approved in advance of the State issuing permission to construct. Many of the crossings will be constructed during the winter, when flow levels are low or dry, to minimize impacts to fish and to benefit from lower flow of water bodies. In addition to the terms of the lease, each fish stream crossing will require a Fish Habitat Permit from ADF&G. ADF&G will continue to be involved in review of stream crossing methods as construction plans are developed and will continue to gather data about fish species at crossing locations. Development of the fish stream list for the Donlin pipeline will be finalized before construction of the pipeline begins and will be continually updated as new information is obtained.

Construction plans would consider extreme seasonal events such as spring flooding and scour of certain waterbodies. This could include planning to complete construction activities at specific crossings well in advance of breakup and burying the pipeline with sufficient depth to protect from scour. Winter waterbody crossings would employ best practices for trenching in frozen soils and stabilizing shorelines as much as possible prior to breakup, with further stabilization to follow. Crossings shall be considered on a case-by-case basis to determine appropriate installation methods and burial depth sufficient to protect against scour. ADF&G participates actively in reviews of construction plans and activities for AS 38.35 pipelines and will be involved in construction oversight to ensure that fish and wildlife protections are followed. Impacts to fish are anticipated to be short-term during construction, largely related to stream bed disturbances during pipeline installation.

- **DNR received comments stating that the State should require completion of ADF&G Title 16 Fish Habitat Permits prior to issuance of the ROW lease to ensure protection of salmon and other fish species.**

Actual construction is still years away. If a ROW is issued, the applicant will need to undergo additional intensive engineering and planning. There will likely be minor changes to timing and possible route changes. To better address modifications to the project, it is better to issue the permits closer to actual construction with a field component to account for unexpected and site-specific issues. Permission to construct occurs only after all designs and plans have been reviewed and approved for that construction segment, and all permits (including Title 16) are obtained by the company. Obtaining the ROW lease allows a company to more accurately work out final details, knowing their requested ROW location is approved. The lease also gives the State an ability to ensure compliance.

- **DNR received comments that the State needs to take more time to assess data gaps and use the information to address pipeline stream crossings.**
  - Related comments called for the use of appropriately-sized culverts for crossings.

DNR and ADF&G will review plans for stream crossings of pipeline construction and project equipment. Specific designs and details are still under development by the applicant and will be submitted to the State for review. The use and design of specific culverts and bridges during construction will be reviewed and considered by State agencies as part of the Notice to Proceed review process, prior to construction approval. Since the pipeline will be buried, with no accompanying road, no permanent road crossings or culverts are anticipated to be needed during pipeline operations. Low water crossings over the buried pipeline or other drainage structures may have to be constructed to maintain water flow, to prevent erosion, and to allow for fish passage where fish are present. If needed, designs for these structures would be reviewed by DNR and ADF&G. Other protective measures to address erosion may include HDD, maintaining vegetation at banks, punctual reseeding and revegetating of cleared areas, and appropriate uses of erosion protection devices such as coir logs. Any impacts to fish from pipeline construction are anticipated to be short term and localized.
• DNR received comments concerning ADF&G’s assessment that construction may cause increased sedimentation, bank erosion, migration disruption, fish egg mortality, loss of habitat and changes to overwintering areas.

ADF&G reviewed the potential impacts to fish species and their habitat. Impacts to fish are anticipated to be short-term during construction, largely related to stream bed disturbances during pipeline installation. During construction, the pipeline will be installed at stream and river crossings through trenching, boring, or HDD as appropriate to the circumstances. These surface disturbances can cause temporary increased sedimentation, bank erosion until vegetation can re-stabilize an area, and can cause site-specific egg mortality, loss of habitat, and changes to overwintering areas. These areas are typically limited to the ROW width during construction.

Best management practices, such as winter construction, can minimize some of these impacts. Many of the crossings will be constructed during winter, when flow levels are low or dry. ADF&G will continue to be involved in review of stream crossing methods as construction plans are developed. Erosion control and restoration activities must be planned in advance of construction; plans for these responses are required by lease Stipulation 2.2 and will be reviewed by DNR and ADF&G before issuance of permission to construct.

ADF&G will also be involved in construction oversight to ensure that fish and wildlife protections are followed.

**Pipeline Product**

• DNR received comments expressing concern about the pipeline transporting other products, such as cyanide or diesel.

Donlin Gold requested a right-of-way to construct and operate a natural gas pipeline across State lands. No cyanide is proposed to be transported in this pipeline.

During the federal NEPA review, alternatives were considered for the overall Donlin project, including a diesel pipeline instead of natural gas, or a diesel pipeline in addition to the natural gas pipeline. These alternatives are not mentioned in the State decision because they were eliminated in the federal process and the applicant is requesting their preferred natural gas pipeline. Any future request from the lessee for a change of service to transport a different product via the pipeline would require approval from the State and potentially an amendment to the ROW lease.

**Pipeline Design**

• DNR received comments expressing frustration the pipeline diameter had changed since commenter’s original awareness of the project.

Donlin’s original concept design was a smaller diameter pipeline but based on requests from communities during EIS scoping, Donlin enlarged the diameter for the pipeline to have increased capacity. This larger pipeline was the design put forward for Donlin’s 2011 Corps permit application and 2014 State ROW application.

• DNR received a comment that Donlin should increase the size of the pipeline to accommodate more offshoot use.

Donlin has assessed the mine site need and the pipeline capacity and has increased the pipeline size to allow for potential offshoot use. The pipeline design has a capacity of 73 million standard cubic feet per day (mmscfd), but the mine needs an estimated 11.2 billion standard cubic square feet per year (roughly
30.6 mmsefd would supply that quantity). Donlin has already voluntarily increased the pipeline size in response to community interest for offshoots. Modifications to the pipeline system such as increased compressor capacity could allow for more offshoot use if future demand increases.

- **DNR received comments concerning earthquakes and fault displacement.**

Fault crossings for the pipeline will be above-ground such as the TAPS crossing of the Denali Fault near Delta Junction. This design has successfully withstood multiple earthquakes. Design of the overall pipeline must meet State and Federal approval for resistance to hazards.

- **DNR received comments concerning permafrost melting.**

Pipeline design in areas of discontinuous permafrost will include such characteristics as increased pipe wall thickness and material selection. Winter construction in wetland and permafrost areas will reduce potential impacts to the terrain. The pipeline and its contents will affect the soil’s thermal regime over time; winter construction is planned in part to reduce impacts by constructing in frozen soils. Environmental changes to the thermal regime will be considered during final pipe design. In-line-inspections (ILI) to monitor pipe movement will be incorporated in the maintenance program.

**Other Comments**

- **DNR received comments related to the costs and benefits of the project.**
  
  - *Specific concerns included the financial impact to guides who use the area crossed by the pipeline.*

The greatest impacts to surface uses of the pipeline ROW will be during construction and will be temporary. A buried natural gas pipeline is a reasonably concurrent use of State lands in most cases and is not expected to cause long-term obstruction to subsistence, recreation, or commercial uses of land. Impacted cultural resources will be avoided, minimized, or mitigated according to approved procedures. Conversely, the ROW lease will provide revenue to the State in the form of lease rental, and to the economy via construction and maintenance jobs. Potential tie-ins to the pipeline could provide other benefits to remote areas of the state and developing the Donlin project is one step to diversifying Alaska's heavily oil-reliant economy.

  - *Concerns were raised that the pipeline benefits only one entity, and one nearby community (Crooked Creek).*

While Donlin mine is closest to the community of Crooked Creek, the benefits of the project would be spread among additional areas in a variety of ways. Donlin has committed to Calista Corporation (Calista) to hire shareholders when possible and has provided funding towards education to train potential employees. Land use and royalty payments to Calista and the Kuskokwim Corporation (TKC) benefit shareholders in a variety of communities. Rental payments from the pipeline ROW would go to State coffers, diversifying income to the state’s revenue, and providing funds that would be distributed to many users. Donlin has supported the Iron Dog and the Iditarod Sled Dog Race and has committed to additional financial support of Iditarod-related projects via the Programmatic Agreement.

  - *Comments were received about the cost of cleaning up the environment in the case of a company bankruptcy.*

In the case of environmental damage resulting from the pipeline or pipeline activities, Donlin would be responsible for immediate response and follow-up restoration. A financial assurances agreement, that will include bonding or other assurances, will be required prior to approval of any construction. Financial
assurance acceptable to the Commissioner will be required throughout construction, operation, and termination phases.

- **DNR received comments regarding local hire.**

  Donlin is required by ROW lease condition 34 to comply with all laws and regulations regarding hiring residents of the State. That condition states that Donlin, “is encouraged to hire and employ local and Alaska residents and companies, to the extent they are available and qualified, for work performed on the Leasehold. [Donlin] is also encouraged to coordinate with employment services offered by the State of Alaska and local communities to employ apprentices to employ apprentices to perform work in the Leasehold and to recruit employees from local communities.”

  Comments about benefits of local knowledge are acknowledged.

  Donlin’s hiring of Outside employees as needed is beyond the scope of this decision.

- **DNR received a comment expressing concern about worker safety in remote locations.**
  - Specific concerns related to harassment and assault, as well as policies to enable workers to report incidents.

  The State of Alaska has workplace violence standards, but not regulations. Incidents of violence or assault are criminal situations and default to local or state law enforcement such as the Alaska State Troopers.

  Donlin’s employee handbook includes a full section on Standards of Conduct, which addresses a wide range of topics including employee interactions.

- **DNR received a comment expressing hope that the State ensures protection of the land.**
  - Specific comments noted that the project should be developed safely.

  The intent of the ROW lease is to protect the State's interests from safety and financial standpoints. Other State agencies will also actively monitor project activity to protect State interests.

  DNR concurs and will be reviewing construction plans as well as inspecting construction and operations to ensure compliance with lease conditions intended to ensure the project is done safely.

**Procedural**

- **DNR received a comment stating that the ROW authorization is a functionally irrevocable disposal of State interest.**

  This type of authorization is acknowledged to be a disposal of State interests and has been public noticed and adjudicated in accordance with AS 38.35 requirements.

- **DNR received a comment stating that the Commissioner must determine if the ROW serves public interest, protects property interest, and whether the applicant will ensure no significant adverse environmental impact to the State’s public trust resources.**

  As required by AS 38.35.100, DNR reviewed whether Donlin is “fit, willing, and able to perform the transportation or other acts proposed in a manner that will be required by the present or future public interest.” In making a determination, the Commissioner shall consider whether the proposed use of the right of way will unreasonably conflict with existing uses of the land; the applicant has the technical and financial capability to take action to prevent significant adverse environmental impact including erosion.
of the land and damage to fish and wildlife and their habitat, undertake necessary restoration and revegetation, and protect the interests of individuals living in the general area who rely on fish, wildlife, and biotic resources for subsistence; has the financial capability to pay reasonably foreseeable damages from construction, operation, maintenance or termination of the pipeline; and will comply with laws and regulations regarding the hiring of residents. These considerations are the basis for the standards reviewed in the Proposed Decision and have been confirmed by this decision.

- **The uses listed in Standard 1 should include subsistence and sport hunting.**

Sport fishing and hunting are discussed on pages 14-15, under Fish, Wildlife, and Biotic Resources within Section IV “Natural Resources Within the Proposed Right-of-Way”. In this section, hunting is noted in the vicinity of the pipeline ROW included guided hunting. Subsistence use is discussed slightly farther down in the section. Though not called out specifically under Standard 1, reference is made to use of other natural resources and to “IV. Natural Resources within the Proposed Right-of-Way”. Additionally, subsistence use and hunting are discussed in the Fish and Game contribution, Exhibit E. Public rights to use navigable waterways and public lands for navigation, commerce, fishing, hunting, and more will be protected, subject to the principals of the Public Trust Doctrine, as mentioned in Section III of the Proposed Decision.

- **The applicant requested several modifications and corrections to the draft lease documents.**

DNR met with the applicant to discuss and amend as appropriate. Comments were mostly minor in scope.

**Technical Capability**

AS 38.35.100 requires the Commissioner to determine whether the applicant has the technical capability to design, construct, operate, maintain, and terminate a pipeline; protect state and private property interests; to take action to the extent possible to prevent any significant environmental impacts; undertake restoration and revegetation; and to protect the interests of individuals in the general area who rely on fish, wildlife, and biotic resources for subsistence purposes.

The project is in preliminary front end engineering and design (pre-FEED) stage, with a final financial decision to be made after major permits are obtained; final engineering and construction plans will be developed after the financial decision is made. Conceptual-level design basis documents were originally submitted in 2014. These documents underwent extensive professional engineering technical review. Further revisions are expected, along with Issued-for-Construction (IFC) design work packages, which will be reviewed and critiqued until the resulting design basis document satisfies the pipeline integrity criteria.

- **DNR received comments expressing concerns related to the pipeline burial depth.**

Pipeline depth will vary along the alignment as appropriate for the conditions of specific locations, with a minimum burial depth of three feet, as required by 49 CFR 192. Pipeline depth will depend on a variety of issues, including possible scour from waterbodies and risks to any nearby infrastructure.
Donlin Pipeline, ADL 231908
Commissioner's Final Decision
Attachment 1
Consideration of Comments

- DNR received comments asserting that the technical section failed to show how Donlin would protect fish. Some comments expressed confusion at differing numbers of stream crossings referenced in decision documents and attachments.

Protections of fish and wildlife are conditions of the ROW lease, and construction activities must also comply with permit conditions and other laws, which have been developed over time to encourage best management practices that will protect resources. Some of these protections include lease conditions in Stipulation 3.7: terms that address temporary blockages of fish passage, screening of pump intakes, and stabilization of water diversion structures. Technical designs must address stream crossing designs, and erosion control. Construction plans required by Stipulation 2.2 must be developed by Donlin and approved by relevant State agencies prior to permission to construct; these include plans to control erosion, restore disturbed areas, and protect fish and wildlife. These plans are still under development but will be reviewed for their technical merit prior to NTP for construction.

The discrepancy between fish stream numbers in different documents most likely is the result of changes in pipeline alignment during and because of the NEPA process which required fishery consultants to go back out in the field and collect additional aquatics data on new streams. As a result, fish stream numbers changed multiple times throughout the process as new data was collected.

- DNR received comments stating that the Decision fails to consider cumulative impacts on natural resources, and reasonably foreseeable impacts from future development.

The Alaska Right-of-Way Leasing Act (AS 38.35) does not require the evaluation of cumulative impacts or reasonably foreseeable future impacts. However, DNR was a cooperating agency in the federal NEPA process which considered cumulative and reasonably foreseeable impacts. The NEPA process is more stringent than AS 38.35 regarding cumulative environmental impacts.

Financial Capability

AS 38.35.100 requires the applicant to have financial capability to protect state and private property interests and to take action to the extent possible to prevent any significant environmental impacts; to restore or revegetate any disturbed areas; to protect the interests of individuals in the general area who rely on fish, wildlife, and biotic resources for subsistence purposes; and to pay reasonably foreseeable damages for which the applicant may become liable on claims arising from the construction, operation, maintenance, and termination of the pipeline.

- DNR received comments expressing concern that there is insufficient financial backing (bonding, etc.) to cover possibilities such as explosion of the pipeline.

The Alaska Right-of-Way Leasing Act (AS 38.35) authorizes DNR to obtain guaranties or securities as a discretionary matter. DNR routinely requires such guaranties in an effort to ensure that a company is guaranteeing the obligations and liabilities of right-of-way lessees.

Donlin will be required to obtain bonding or other financial guarantees to cover risks associated with construction, operations, and termination activities. All three of these phases include the possibility of a major catastrophe. Furthermore, bonding amounts will be periodically reviewed during each phase and adjusted if necessary to reflect changes to the State's risk. The framework for these financial assurances is included as Exhibit C to the ROW lease as agreed to by the State and Donlin.
DNR will continue negotiating final bonding details during the entire life of the project to cover various risks. Specific financial assurance amounts will be determined and set prior to approval to construct, and appropriate assurances must be in place prior to construction.

Donlin will be required to obtain appropriate insurance for the life of the pipeline, under lease condition 8(q), and the Commissioner may require additional financial protections at any time as outlined in lease condition 11 (b):

“If the Commissioner determines at any time that the guaranty is insufficient to satisfactorily guarantee the performance of all the Lessee’s duties, obligations, and potential liabilities under and by virtue of this Lease, the Commissioner may require the substitution and delivery of a supplementary guaranty or other security from Lessee or from a substitute guarantor or insurser, with any provisions the Commissioner reasonably finds necessary.”

Thus, DNR has the contractual power, at any time, to require a new guaranty or other security. Donlin is required by lease condition 11(d) to submit, on an annual basis, financial information on their guarantor, or such financial documentation that the Commissioner requests. If at any time DNR becomes concerned that the guaranty is insufficient to protect state interests, DNR can then require a new guaranty. The state’s interests are therefore protected.

**Not Within the Scope of Decision:**
Some comments received are not within the requirements for determination under AS 38.35.100. These comments are mentioned below for clarification.

- **DNR received comments concerning the use of mercury and cyanide in gold mining, and spills of mining products.**

The Donlin Gold Mine is proposed on private lands, and while proposed to be fueled by natural gas transported by this pipeline, mine activities are permitted separately and are not within the scope of this decision or the authority of AS 38.35.

- **DNR received a comment requesting a Trespass Plan to address possible trespass on private lands due to increased traffic in the area.**

Trespass of land users onto private lands is outside the scope of this ROW decision. The ROW authorization is for use of State lands only, which are open for general use. Securing approval for the use of private property is the responsibility of Donlin.

- **DNR received a comment stating that the pipeline could be built or funded by other entities.**

The DNR decision considers the financial capability of Donlin and its parent companies to construct, operate, maintain, and terminate the natural gas pipeline. Additional partners or financial backing is an option available to Donlin but not required under this decision by DNR.

The Alaska Gasline Development Corporation (AGDC), a port authority, or other such entity, did not apply to build the pipeline. Private development in the State is encouraged. As it stands, no other entity has communicated a competitive interest for this pipeline purpose or route.
• **DNR received a comment stating that the State needs to get appropriate revenues from mining operations.**

Mining activities and taxes are beyond the scope of this decision. The ROW lease annual rental fee will be based on a percentage of the Fair Market Value (usually 8-12%) of the ROW corridor which will become part of the State’s general fund.

• **DNR received comments relating to the proposed supply access routes in the Matanuska-Susitna Borough (MSB), from Oilwell Road, Petersville Road, or Willow Creek Parkway.**

Access routes from the Parks Highway area have not yet fully been determined and are not part of the ROW lease. Access across State lands for the supply routes will be authorized via Temporary Land Use Permit (TLUP). Access across MSB owned lands must be approved by the Borough. This feedback has been shared with Donlin for their consideration as they develop their options, and they will need to comply with local regulations as well as any conditions required by a DNR TLUP for access routes. Donlin is expected to continue consultation with communities and the MSB as they finalize their plans.

• **DNR received a comment inquiring about insurance for the mine tailings pond.**

Insurance and financial assurances for the pipeline are a requirement of the ROW lease, specific to the pipeline. Additional bonding and protections will be required by the State and landowners through other authorizations or agreements for other components of Donlin’s overall project such as the mine tailings storage facility.

• **DNR received a comment relating to Classification changes on State lands.**

This late-arriving comment was forwarded to the Southcentral Regional Land Office for consideration.

• **DNR received a comment stating that the increased access will result in more need for rescue teams searching for lost hunters, etc.**

If increased access leads to greater need for search and rescue services, organizations and agencies that provide such services may need to pursue additional funding from the public and the legislature. Travel into remote locations is a personal choice and individual responsibility should also be considered by those recreating out in the wilderness, regardless of any improvements to access.

• **DNR received comments about increased oversight of the alignment by agencies other than DNR.**

During construction, there will be multi-agency oversight along the alignment, especially in active construction areas. Following construction and stabilization, inspections will decrease in frequency but can be expected for the life of the pipeline.

DNR and PHMSA will both monitor operations of the natural gas pipeline; DNR and BLM are the agencies responsible for monitoring state and federal lands crossed, respectively. ADEC has oversight authority in relation to spills, contamination, and environmental quality. Other agencies, including ADF&G and USACE, will have oversight of specific actions and conditions of development and operations. The pipeline will also need a construction permit, approval of a tariff, and to receive a Certificate of Public Convenience and Necessity from the Regulatory Commission of Alaska (RCA) prior to the start of construction of the pipeline. The RCA will also oversee tariff conditions throughout pipeline operations. Additionally, Section 17 of the right-of-way lease requires the lessee obtain all applicable federal, state, or local permits and authorizations.
- DNR received comments expressing frustration that their feedback on the NEPA process was dismissed as “not applicable”.

The NEPA process is a Federal process and the State has no say in what is applicable to one of their decisions. Comments relevant to this decision were reviewed and considered while completing the preliminary and final decisions.

- DNR received a comment stating that the decision does not consider that this project would be the first major development in the Kuskokwim Region, that it breaches the integrity of the wilderness, and that the State does not have a complete understanding of how the pipeline will change the region.

The review of future impacts on a region are beyond the scope of an AS 38.35 authorization. AS 38.35 requires review of whether Donlin is “fit, willing, and able to perform the transportation or other acts proposed in a manner that will be required by the present or future public interest.” However, DNR was a participant in the NEPA review which considered the impacts of the Donlin project to the area.

- DNR received comments expressing concern about the source of the natural gas, considering past warnings of supply shortages in Southcentral Alaska.

The source of Donlin's natural gas supply is undetermined at this point. Contract Carrier open season would allow Donlin to purchase their supply from any source. Cook Inlet gas is currently sufficient for the region and could be the source of natural gas. This issue is outside the scope of this decision.

- DNR received comments suggesting that the pursuit of other energy supply sources would negate the need for a pipeline.

Alternative sources of energy were considered during federal NEPA review and were considered impractical for project needs, largely due to their inability to provide sufficient, steady power needed for mine processing equipment. Additionally, this review is outside the scope of a pipeline right-of-way application review.

- DNR received a comment that the Decision improperly segmented its review by excluding the airstrip, material sites, and road easements under consideration by DNR DMLW SCRO.

The mine site and other supporting infrastructure directly related to the mine site are outside the scope of AS 38.35 authority, and thus, outside the scope of this review. The Donlin project was considered in its entirety via a NEPA review which concluded in the summer of 2018, in which the State of Alaska was a Cooperating Agency. Cumulative impacts were considered as part of that review.

- DNR received a comment asking if ADF&G could impose a no-hunting zone around the pipeline corridor “like around TAPS”

Zones of restricted hunting could only be established by the Board of Game and are outside the scope of DNR's authorization. Interested citizens are encouraged to discuss this proposal with ADF&G Board of Game. Currently, a no-firearm restriction is in place only along the Dalton Highway, which allows bowhunting only; no special hunting restrictions are in place specifically along the Trans-Alaska Pipeline System (TAPS).
The proposed Donlin lease prohibits hunting by employees in Stipulation 2.13, which states that the Lessee shall prohibit its agents, employees, and contractors while on duty or living at a camp, from hunting, fishing, trapping, shooting, and camping within the ROW.

Donlin company policy prohibits employees from hunting while in the field for work. Their employee handbook also outlines their “no personal firearms” policy which is in effect during their exploratory work and would carry forward for construction and operations.

- **DNR received a comment expressing general opposition to pipeline.**

Comment acknowledged.

- **DNR received comments expressing opposition to the Donlin Mine.**

Comment acknowledged.

- **DNR received a comment expressing concern about the impacts to Bristol Bay.**

The Donlin project does not impact the Bristol Bay watershed.

**Comments of Support**

DNR also received comments of support. Supporters noted the following positive aspects of the pipeline and Donlin project:

- Job opportunities – both direct for the project, and related via construction and project support
- Economic diversification for the Alaska economy
- Potential for inexpensive fuel to be supplied to Western Alaska
- Donlin’s commitments to affected parties such as Calista and the Iditarod trail
- Potential for community connections to fiber optic communication
- The project would bring infrastructure to a remote part of the state
- Cultural, social, and economic benefits of having well-paying jobs available in Western Alaska (some comments included comparisons to regional benefits from Red Dog)
- Protection of culture by having job opportunities that allow connection to nearby communities and traditional activities such as subsistence hunting courtesy of flexible work shifts
- Future power generation possibilities for the region
- General support

Features and actions that earned specific praise included:

- Consultation with residents led to the development of a pipeline instead of barging all fuel in the form of diesel on the Kuskokwim river. This change removes 70 million gallons of diesel annually off barges along the Kuskokwim
- A buried pipeline design to minimize impacts to land users
- The increased size (diameter) of the pipeline for greater capacity to allow tie-ins
- Donlin’s commitment to local hire, including agreements with native organizations
- Donlin’s continued training sponsorship
- A well-designed pipeline
- Donlin’s community outreach during exploration and project development
- Donlin’s sponsorship of activities such as the Iditarod Sled Dog Race and the Iron Dog Race, including sending crews and equipment for field projects
- Economic stimulus to Western Alaska that the Donlin project has provided to date
- Commenters noted that mine sites are very energy intensive and praised the use of natural gas as a fuel source to lessen environmental impacts. The switch to natural gas from diesel as a fuel was praised for its cleaner power generation.

Comments acknowledged.