

CHAPTER 1: PROJECT INTRODUCTION AND PURPOSE AND NEED

1.1 INTRODUCTION

The U.S. Army Corps of Engineers Alaska District (Corps) is examining the potential impacts of the proposed Donlin Gold mine located in the Kuskokwim River watershed, 277 miles west of Anchorage, 145 miles northeast of Bethel, and 10 miles north of the community of Crooked Creek. The proposed open pit hard rock mine and associated processing facilities would produce gold for sale. Active mining would take place over an approximately 27 year period. Major project components include the Mine Site; Transportation Corridor; and Pipeline. The proposed mine and related facilities would have a total footprint of approximately 16,300 acres located throughout 80,600 acres of leased land. Chapter 2 provides a detailed project description.

Donlin Gold LLC (Donlin Gold, also referred to as the applicant), owned by Barrick Gold US Inc. and NovaGold Resources Alaska Inc., has applied for a Department of the Army (DA) permit to allow for the discharge of dredged or fill material into waters of the United States pursuant to Section 404 of the Clean Water Act (CWA). The project involves a federal action because the associated fill activities affect wetlands and other waters of the United States, and require authorization under Section 404 of the CWA (33 USC 1344). Under Section 404, the Corps was granted authority to issue permits for discharges of dredged or fill material into waters of the U.S. The Corps serves as the lead agency for jurisdictional determinations and permit actions and has set forth implementing regulations in Title 33 Code of Federal Regulations (CFR; Parts 320-332). In addition, the project includes activities in navigable waters. Under Section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 USC 403, 33 CFR 320), the Corps has authority to issue or deny permits for work and structures in, on, over, or under navigable waters of the United States.

The Corps has determined that the Donlin Gold Project could significantly affect the quality of the human and natural environment, and that the DA permit decision would constitute a major federal action. With publication of a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS)¹ on December 14, 2012, the Corps initiated the National Environmental Policy Act (NEPA) process for review of the Donlin Gold Project proposed by Donlin Gold.

A primary purpose of a U.S. Army Corps of Engineers regulatory program EIS is to provide full and fair discussion of the significant environmental impacts of a proposal or project submitted by an applicant seeking a DA permit. An EIS is used to inform agency decision makers and the public of the potential environmental effects of a proposed project and alternatives to an applicant's project that might avoid or minimize adverse impacts. An EIS is not a regulatory decision document. It is used by agency officials in conjunction with other relevant information in a permit application file, including public and agency comments presented in this Final EIS, to inform the final decision on a permit application. An agency Record of Decision (ROD) would be developed to document the final decision of the permit application after release of the Notice of Availability of the Final EIS.

¹ Federal Register/Vol. 77, No. 241/Friday, December 14, 2012/Notices.

Donlin Gold filed a right-of-way (ROW) application with the Bureau of Land Management (BLM) consistent with the requirements of Section 28 of the Mineral Leasing Act of 1920 (MLA) as amended for the project across federal lands. Donlin Gold also filed an application with the Pipeline and Hazardous Materials Safety Administration (PHMSA), an administrative division of the U.S. Department of Transportation (USDOT), for a Special Permit to allow use of Strain Based Design (SBD) for parts of the pipeline. The Special Permit establishes additional requirements for the design, construction, and operation of the pipeline in permafrost areas where there is potential for significant thaw settlement of the pipeline. To avoid duplication of efforts and so that one NEPA document can be used to inform all of the decisions needed to determine whether and how the proposed action should proceed, pursuant to 40 CFR 1501.6 and 33 CFR 325, Appendix B, the Corps invited the BLM and the PHMSA to participate in the Donlin Gold Project EIS process as cooperating agencies rather than undertaking a separate NEPA evaluation for their decisions on the pipeline.

This chapter of the EIS provides a description of the Donlin Gold Project; the project overview location, the project purpose and need; the scope of the EIS analysis; agency roles and responsibilities; and a summary of required permits, licenses, and other approvals.

1.2 PROJECT OVERVIEW AND LOCATION

Donlin Gold is proposing a project to produce gold from ore reserves owned by the Calista Corporation (Calista) through open pit mining methods and milling processes suitable for application in remote western Alaska. To mine these ore reserves, Donlin Gold is proposing the development of an open pit, hardrock gold mine located in the Kuskokwim River watershed, 277 miles west of Anchorage, 145 miles northeast of Bethel, and 10 miles north of the community of Crooked Creek (see Figure 1.2-1). The project would require approximately 3 to 4 years to construct with a projected mine life of approximately 27 years.

Major project components include the Mine Site; Transportation Corridor; and Pipeline:

- The Mine Site component includes the excavation of an open pit, milling and ore processing, tailings storage facility (TSF), Waste Rock Facility (WRF) and overburden stockpile, dual-fuel (diesel and natural gas) 227 MW power plant, utilities, services and infrastructure, mine maintenance and safety controls, and Mine Site closure and reclamation.
- The Transportation Corridor component includes expanded port facilities at the Bethel cargo terminal (connected action, see below), river barge traffic, barge landing at Angyaruaq (Jungjuk), 30-mile mine access road, 5,000-foot airstrip, a man camp for crew housing, transportation facilities, and closure and reclamation of the transportation facilities.
- A 316-mile, small-diameter (14-inch), natural gas pipeline from the west side of Cook Inlet to the Mine Site would provide energy for the power plant at the Mine Site. The Natural Gas Pipeline component includes a ROW, aboveground facilities (compressor station, pig launcher and receiver station, and main line valves), temporary work areas outside of the ROW, design and construction procedures, and decommissioning, abandonment, and reclamation.

The mine would deliver about 59,000 short tons² per day of ore for approximately 27 years to supply an onsite mill, which would produce approximately one million ounces of gold per year through crushing and grinding, flotation, pressure oxidation and cyanide leaching of the concentrate, and stripping, electrowinning, and refining. The mine and related facilities would have a total footprint of approximately 16,300 acres. Figure 1.2-1 depicts the location of the project.

1.2.1 CONNECTED ACTIONS

Any actions that would occur at Dutch Harbor or the Port of Bethel at the Bethel Yard Dock are not part of the proposed action, and are considered connected actions pursuant to NEPA (40 CFR 1508.25). At this time, it is not known that connected actions would occur. However, connected actions are analyzed for some resources in or near Dutch Harbor and the Bethel Yard Dock in the context of resource impacts in Chapter 3, Affected Environment and Environmental Consequences. The connected actions include:

- Dutch Harbor: Dutch Harbor is an international, year-round port, directly on the shipping routes between the West Coast and other countries on the Pacific Rim. With well-developed port infrastructure, sufficient available land, and well established national and international shipping connections, existing facilities at Dutch Harbor would be used as a location for forward deployment of cargo prior to the shipping season on the Kuskokwim to store containers and break-bulk cargo. Other forward deployment locations could include existing facilities in Juneau, Kodiak, and King Cove if the need arises and space is available. Additionally, fuel would be stored in Dutch Harbor for transfer to Bethel. Total fuel storage capacity at Dutch Harbor is currently approximately 12 Mgal. Additional fuel storage capacity of approximately 8 Mgal may be needed for the project which may require development of 4 to 6 acres of land. Undeveloped land adjacent to existing industrial areas appears to be available throughout Unalaska. Donlin Gold does not propose the construction of additional capacity in Dutch Harbor. Donlin Gold has indicated they would likely use a third-party to transport fuel and other supplies to the project site. That party would determine what amount of additional fuel capacity, if any, would be required in Alaska to accommodate demand. Additionally, that party would be responsible for applying for and obtaining any permits that may be required for the expansion.
- Bethel Cargo Terminal: A 16-acre cargo terminal would be constructed in Bethel to receive barges originating from marine terminals in Seattle, Vancouver, and Dutch Harbor (forward deployment), and barges returning from the upriver port at Angyaruaq (Jungjuk). The cargo terminal would be an expansion of the existing Bethel Yard Dock with three general cargo berths (one for ocean barges and two for river barges), a roll-on/roll-off berth, and sufficient space to store up to 2,750 containers (approximately five ocean barge loads). Buildings, access roads, equipment storage, plowed snow, spare pallets, chains, ropes, damaged containers, lighting, dock surface, and equipment maneuvering would occupy an estimated 3.5 acres. Donlin Gold has indicated that a third-party would construct and operate the Bethel Cargo Terminal at which time any permits that may be required for the expansion would be obtained.

² The term "short tons" refers to the English measurement of 2,000 pounds.

- Bethel Fuel Terminal and Tank Farm: Donlin Gold anticipates a 6 Mgal fuel storage facility may be needed at Bethel. The tanks would be installed in lined containment areas. When ocean fuel barges arrive at Bethel, the fuel would be offloaded into storage, or directly to river barges alongside the ocean barge. Donlin Gold has indicated they would likely use a third-party to construct and operate the Bethel Fuel Terminal. That party would determine what amount of additional storage space and waterfront structures, if any, would be required to accommodate demand; or what, if any, permits may be required.

1.3 PROJECT PURPOSE AND NEED

In accordance with NEPA, the Corps must specify the underlying purpose and need for the project (40 CFR 1502.13). The purpose and need establish part of the framework for identifying the range of alternatives to a proposed action to be evaluated in an EIS.

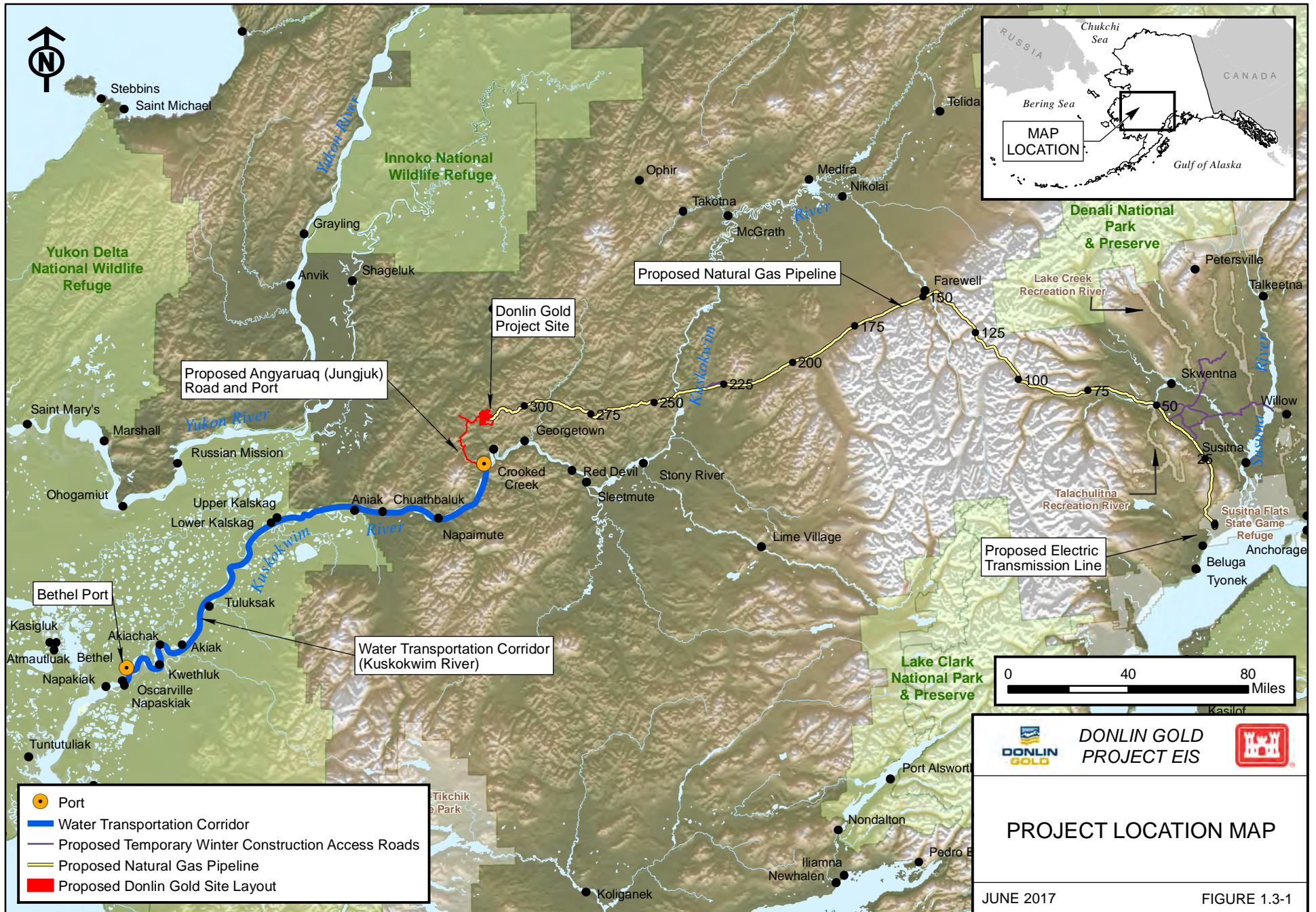
The Corps may define three ways of stating the purpose of a project. As described below, one statement is provided by the applicant, and the other two are determined by the Corps:

1. The applicant includes a stated purpose in the application to the Corps for a DA permit;
2. The Corps determines the basic purpose of the project, which is used to determine whether the project is water dependent under Section 404(b)(1) of the CWA; and
3. The Corps determines the "overall" purpose of the project, which is used to determine the range of practicable alternatives to the project to be considered during preparation of an EIS.

1.3.1 APPLICANT'S STATED PURPOSE AND NEED

Donlin Gold supplied the following statement to describe its overall purpose and need for this project:

The purpose of the proposed project is to profitably produce gold from ore reserves owned by Calista, an Alaska Native Claims Settlement Act (ANCSA) corporation, utilizing open pit mining methods and conventional, proven milling processes suitable for application in remote western Alaska. The need for the proposed project is to enable Calista and The Kuskokwim Corporation (TKC) to maximize economic benefits for their shareholders, from lands with mineral potential selected and conveyed to them under ANCSA, by producing gold to meet worldwide demand. Gold is an established commodity with international markets.



Donlin Gold also supplied the following statement to describe the purpose and need for the Pipeline component of this project:

The purpose of the Donlin Gold natural gas pipeline is to provide a long-term stable supply of natural gas to meet energy needs for the proposed Donlin Gold Project. The proposed pipeline is designed as a privately owned facility to support the proposed mine operation. Natural gas supplied by the pipeline would be used to create electricity for mine operations and heat for buildings. Donlin Gold has determined that the use of natural gas supplied via the proposed pipeline is the most practicable, cost-effective, and environmentally acceptable means of providing a reliable long-term energy source for the proposed project.

Donlin Gold's need for the pipeline is driven by the remote location of the Mine Site. There are no existing or readily useable resources that can provide sufficient energy needed for development and operation of the mine within Donlin Gold's timeframe. The remote location does not have sufficient, naturally occurring gas resources, or other energy sources of the magnitude necessary to support mine development and operations. No existing transportation or utility infrastructure services are available to the proposed Mine Site or surrounding area. Access to the Mine Site is seasonal via the Kuskokwim River or by aircraft, as weather conditions allow.

1.3.1.1 CORPS' OVERALL PROJECT PURPOSE AND NEED FOR ACTION

Consistent with Corps (33 CFR 325 Appendix B) and NEPA (40 CFR 1502.13) regulations, the Corps has carefully considered the applicant's stated purpose and need and has determined the agency's own underlying project purpose and need to which the agency is responding in proposing the alternatives including the proposed action evaluated in this EIS. The purpose of the Donlin Gold Project, as defined by the Corps, is to produce gold from the Donlin deposit ore reserves using mining processes, infrastructure, logistics, and an energy supply(s) practicable for application in remote western Alaska. The Corps' need for federal agency action arises directly from Corps permit authority as described below in Section 1.5.

1.4 SCOPE OF ANALYSIS

The Corps scope of analysis describes which portions of the overall project the Corps will evaluate pursuant to NEPA as the area subject to cumulative federal control and responsibility. This is the geographic limit of the review and environmental analysis under NEPA, and thus to be presented in the EIS.

The Corps federal involvement for the project is limited to a DA permit decision pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the CWA. However, due to the configuration of streams and wetlands on the project site, the regulated activities comprise a substantial portion of the project so as to extend cumulative federal control and responsibility. Additional federal control and responsibility by BLM and PHMSA extend to the pipeline component. On these bases, the NEPA scope of analysis for this EIS is the entire Project Area (Figure 1.2-1), and is further defined by the summation of the resource study areas which are described within the resource subchapters of Chapter 3, "Environmental Analysis." For some resource areas such as soils and geology, the spatial scope of analysis is limited to disturbance within the physical footprint of the project component (Mine Site, Transportation Corridor, and

Pipeline). For other resource areas, such as cultural, visual and socioeconomics, the study areas encompass broader areas surrounding the project components including downstream communities. For most resource areas, the geographic scope of analysis extends outside the project component boundaries, with distances dependent on the resource and the reach of the potential impacts.

The NEPA scope of temporal analysis for the Donlin Gold EIS forecasts approximately 85 years into the future for most resources but more than 200 years for pit lake water quality (to account for water treatment and monitoring post-closure). This is based on the anticipated duration of three to four years of construction, the active mining period (mine years 0 through 27), the post-mining and mine closure period, and the more extended post-Closure monitoring period (expected to take place over approximately 50 years after active mining ends). The post-Closure monitoring period was established based on current estimates of the length of time required for the pit lake water level to reach an elevation at risk of free flow into Crooked Creek and construct a water treatment plant (five years prior to pit lake filling). Modeling of the pit lake through 200 years after filling has been performed for the purpose of estimating lake stratification and waste water treatment needs.

The scope of analysis for cumulative effects also varies by resource. For certain resources such as migratory birds and wildlife, air quality, subsistence, and socioeconomics the area of consideration could be more extensive than the areas defined for direct and indirect impact analysis. The scope of the cumulative impacts analysis is discussed in Chapter 4 (Cumulative Effects).

1.5 LEAD AND COOPERATING AGENCY ROLES

The Corps is the lead federal agency for this EIS. Five agencies and six Alaska Native tribal councils with federally recognized tribal government status were identified to have jurisdiction by law or special knowledge or expertise, and on this basis served as cooperating agencies under NEPA. The cooperating agencies were:

- Bureau of Land Management (BLM)
- Pipeline and Hazardous Materials Safety Administration (PHMSA)
- U.S. Environmental Protection Agency (USEPA)
- U.S. Fish and Wildlife Service (USFWS)
- State of Alaska
- Village of Crooked Creek
- Native Village of Chuathbaluk
- Knik Tribal Council
- Native Village of Napaimute
- Native Village of Aniak
- Native Village of Akiak

The cooperating agencies met regularly to provide comments on proposed strategies for each EIS milestone, and to provide review comments on draft technical documents as well as chapters of this EIS.

1.5.1 U.S. ARMY CORPS OF ENGINEERS

1.5.1.1 CORPS AUTHORIZATION AND PERMITTING

The Corps must determine whether the project activities should be authorized and permitted. In order to do so, the Corps has undertaken and will undertake the following actions.

- Prepare Draft EIS and Final EIS – Under NEPA, a Draft EIS and Final EIS are required. These documents disclose potential impacts associated with the applicant’s proposed project and a range of alternatives. The Corps obtained public and agency input on the Draft EIS to create this Final EIS. The Corps will consider the potential impacts and associated mitigation disclosed in the Final EIS to inform its permit decision. The alternatives and impact analysis in the Final EIS also provide a basis for determining compliance with the 404(b)(1) guidelines. The Corps is neither an opponent nor a proponent of the applicant’s proposal. Therefore the applicant’s final proposal is identified as the applicant’s preferred alternative (40 CFR 1502.14; 33 CFR 325 Appendix B).
- Prepare a Record of Decision – The Corps will prepare a ROD documenting the agency’s findings and stating whether the permit is denied or granted³, based on the findings of the following:
 - Determine Compliance with 404(b)(1) Guidelines – Under 40 CFR 230 Subpart B, the Corps’ evaluation of the Donlin Gold Project will use four determinations to conclude if the project complies with the 404(b)(1) guidelines. The first of these determinations results in identification of the Least Environmentally Damaging Practicable Alternative (LEDPA). Key to this determination is that the Corps cannot issue a permit for a project if there is a practicable alternative which would have less adverse impact, so long as the alternative does not have other notable adverse environmental consequences. The remaining determinations establish whether other applicable laws would be violated, whether the discharge would cause or contribute to the degradation of Waters of the U.S., and whether steps have been taken to minimize potential adverse impacts. The 404(b)(1) guidelines evaluation document (the ROD) draws on the alternatives and impact analyses developed in the Draft EIS and Final EIS, with a focus on the specific decision-making framework required by the 404(b)(1) guidelines.
 - Conduct a Public Interest Review – The Corps will evaluate Donlin Gold’s proposal against the public interest factors (33 CFR 320.4[a]). Evaluation of the impacts which the project may have on the public interest requires a careful weighing of all factors relevant to each proposal. Weighing these factors allows

³ In a Statement of Findings, the decision options available to the Corps, which embrace all of the applicant’s alternatives, are to issue the permit, issue the permit with modifications, or deny the permit. Modifications are limited to those project modifications within the scope of established permit conditioning policy (see 33 CFR 325.4). A decision to deny the permit results in the No Action Alternative (no activity requiring a USACE permit) [33 CFR 325 Appendix B]. In those cases involving an EIS, the statement of findings will be called the record of decision.

the Corps to determine whether the project is contrary to the public interest. In addition to evaluation of the public interest factors, the Corps must consider the extent of the public/private need for the proposal, the practicability of using reasonable alternative locations and methods if there are unresolved conflicts as to resource use, and the extent and permanence of the beneficial and/or detrimental effects of the proposal.

- Make a Permit Decision – If the decision is to deny the permit, discharge of fill material into Waters of the U.S. would not be allowed. If the decision is to issue a permit, the permit would describe the project, any conditions, and the mitigation required. Further, Donlin Gold would be given the opportunity to review the permit and conditions, and to decide whether to accept all terms and conditions therein or to appeal the decision.

1.5.2 BUREAU OF LAND MANAGEMENT

Under Section 28 of the MLA (30 USC 185), the BLM has the authority to issue grants for oil or gas pipelines or related facilities to cross federal lands under BLM jurisdiction or under the jurisdiction of two or more federal agencies, except land in the National Park System, land held in trust for Indians, or land within the Outer Continental Shelf.

Additionally, pursuant to the National Trails Systems Act of 1968 (16 USC 1241-1251), the BLM is the statutorily designated federal administrator for the Iditarod National Historic Trail (INHT), and is the federal point-of-contact for INHT matters. No one entity manages the entire Iditarod Trail—management is guided by a cooperative plan adopted by federal and state agencies in the mid-1980s. The State of Alaska manages the INHT on State lands. The BLM, as the Trail Administrator for the INHT, has cooperated with the State of Alaska to operate, develop, and maintain portions of the INHT located outside the boundaries of federally administered areas in accordance with the INHT Comprehensive Management Plan (1986), and as agreed to in the 'Memorandum of Agreement Between the State of Alaska and Bureau of Land Management, U.S. Department of Interior Concerning the Iditarod National Historic Trail' (1987), and pursuant to the requirements of Public Law 90-543 (as amended). In general, the BLM has permitting authority for the INHT over BLM lands and DNR has permitting authority over State lands.

On March 2, 2010, Donlin Gold submitted an initial application to the BLM Anchorage Field Office for a pipeline ROW to cross public lands pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 USC 185) and 43 CFR Part 2880, ROWs Under the Mineral Leasing Act. The application was subsequently updated as the Donlin Gold Natural Gas Pipeline Plan of Development was developed and revised. In January 2014, Donlin Gold submitted an additional application for the proposed fiber optic cable associated with the proposed pipeline.

Prior to issuing a decision on the requested ROW, the BLM must review the proposed ROW action pursuant to NEPA and other applicable federal laws and regulations, including the Endangered Species Act (ESA) and the National Historic Preservation Act (NHPA). The pipeline ROW would not be necessary but for the construction and development of the proposed open pit gold mine. As a result, for the BLM the pipeline is an interdependent part of the proposed mine development, a larger action, and depends on that larger action for its justification. Therefore, the development of the proposed Mine Site and the requested pipeline ROW are, by definition, connected actions and must be analyzed as such in the BLM's NEPA review and decision-making process (40 CFR 1508.25(a)1).

1.5.2.1 BLM PROJECT PURPOSE AND NEED

The BLM addresses the purpose and need for the evaluation based on its regulations. The BLM must also address conformance with the applicable land use management plans. The following sections address these two components of the BLM purpose and need.

1.5.2.1.1 BLM PURPOSE AND NEED FOR ACTION

The BLM action under consideration is a ROW Grant for a gas pipeline, including associated Temporary Use Permits, under the MLA of 1920 (MLA), as amended (30 USC 185). The need to evaluate Donlin Gold's proposal is established by the BLM's responsibility under the MLA to respond to requests to transport oil or gas across public lands via pipeline. Consistent with 43 CFR 2881.2, the BLM's objective or purpose in considering this action is to provide legal access across public lands in a manner that: protects the natural resources associated with federal and adjacent lands, whether private or administered by a government entity; prevents unnecessary and undue degradation to public lands; promotes the use of ROW in common (where applicable); and coordinates, to the fullest extent possible, with state and local governments, interested individuals, and appropriate quasi-public entities.

The BLM decision to be made is whether to authorize the requested ROW Grant and associated Temporary Use Permits and, if authorized, what terms and conditions would apply to the authorizations.

1.5.2.1.2 CONFORMANCE WITH BLM LAND USE PLANS

In addition to the agency-specific guidance regarding purpose and need, the BLM must also evaluate the project for conformance with two land use plans. The Ring of Fire Record of Decision and Approved Management Plan of March 2008 (RMP), and the Southwest Planning Area, Management Framework Plan of November 1981 (MFP) provide the overall long-term management direction for BLM-managed lands encompassed by the Donlin Gold project.

1.5.3 PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

The PHMSA is mandated to ensure pipeline safety under 49 USC 601. Through the PHMSA, the USDOT develops and enforces regulations for the safe, reliable, and environmentally sound operation of the nation's 2.3 million mile pipeline transportation system and the nearly 1 million daily shipments of hazardous materials by land, sea, and air. Within the PHMSA, the Office of Pipeline Safety has the safety responsibility for the nation's natural gas and hazardous liquid pipelines. It develops regulations and other approaches to risk management that ensure safety in the design, construction, testing, operation, maintenance, and emergency response of pipeline facilities. USDOT pipeline standards are published in 49 CFR Parts 190 through 199, with Part 192 specifically addressing natural gas pipeline safety issues. Many of the regulations are written as performance standards that set the level of safety to be attained and allow the pipeline operator to use various technologies to achieve these required levels. Any alternative requirements or variances to the requirements in the PHMSA regulations are set forth in Special Permits issued by the PHMSA.

1.5.3.1 PIPELINE HAZARDOUS MATERIALS SAFETY ADMINISTRATION PURPOSE AND NEED

Donlin Gold is proposing to build a pipeline to transport natural gas to the Mine Site. The U.S. Department of Transportation (USDOT), the PHMSA is the regulating agency and 49 CFR Part 192 includes specific requirements for the design, construction, and operation of natural gas pipelines. Donlin Gold anticipates there will be areas along the pipeline with potentially frost unstable soils or ground movement, and intends to request a Special Permit from the PHMSA to allow Strain-Based Design of the pipeline. Strain-Based Design involves advanced metallurgy and engineering to allow the pipe to deform in the longitudinal direction and yet remain safe. Special Permits are allowed by pipeline regulations in 49 CFR 190.341. The PHMSA is required to comply with NEPA in deciding whether to issue the Special Permit.

A Special Permit would allow Donlin Gold to design and construct the pipeline using Strain-Based Design. The Special Permit would include stipulations to ensure the pipeline has equal or greater safety than a pipeline constructed to code (49 CFR Part 192).

The PHMSA decision to be made is whether to authorize a Special Permit for the project and, if authorized, what terms and conditions would apply to the permit. The need to evaluate Donlin Gold's request for a Special Permit is established by the PHMSA's responsibility under 49 USC 601 to prescribe minimum safety standards for pipeline transportation and for pipeline facilities. Donlin Gold requested the Special Permit on November 11, 2016 and PHMSA noticed the request in the Federal Register on April 3, 2017 under Docket No. PHMSA-2016-0149. The public comment period was 60 days, through June 2, 2017. Following completion of the Final EIS, PHMSA will complete a ROD to document the decision to issue or deny the request for the Special Permit. Consistent with 49 CFR 190.341, the PHMSA's objective or purpose in considering this action is to provide for alternative requirements, or variances, to the design, construction, operation, and maintenance of a pipeline where such variances would result in a pipeline with equal or greater safety than a pipeline constructed in accordance with 49 CFR Part 192.

1.5.4 U.S. ENVIRONMENTAL PROTECTION AGENCY

EPA authority includes direct implementation of the Resource Conservation and Recovery Act (RCRA) and the Oil Pollution Act (OPA). EPA also has an oversight role of the State on the Clean Air Act (CAA), and the Safe Drinking Water Act (SDWA) and an oversight role of the State on the Clean Water Act § 402 permitting of point source discharges (Alaska Department of Environmental Conservation Alaska Pollutant Discharge Elimination System permitting program). Relevant to the Donlin Gold Project, and pursuant to Section 404 of the CWA (33 USC 1251 et seq.), the EPA provides comments in response to public notice from the Corps on the Corps' permit applications pursuant to Section 404 for compliance including Section 404(b)(1) Guidelines and other statutes and authorities within its jurisdiction (40 CFR Part 230). In addition, under Section 309 of the CAA (42 USC 7401 et seq.), the EPA has the responsibility to review and comment on, in writing, the EIS for compliance with the Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 CFR Parts 1500–1508).

1.5.5 U.S. FISH AND WILDLIFE SERVICE

The USFWS has responsibility and special expertise to conserve, protect and enhance fish, wildlife, and plants, and their habitats for the continuing benefit of the American people. These

responsibilities include conservation of fish and wildlife resources (including mitigation planning); implementing the regulations of the Federal Subsistence Board on National Wildlife Refuges;⁴ maintenance and improvement of water quality in the interest of these resources; preservation, restoration, and maintenance of naturally functioning ecosystems on which these resources depend; and working cooperatively with other resource agencies to effectively gather high-quality information on species, their habitats, and the potential impacts of human development on these resources. The USFWS has statutory authorities under many laws including the Fish and Wildlife Coordination Act, the National Wildlife Refuge System Administration Act, the Alaska National Interest Lands Conservation Act (ANILCA), the ESA, the Marine Mammal Protection Act (MMPA), the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection Act (detailed in Appendix AA). During evaluation of Section 404 of the CWA permit applications, the USFWS consults on impacts to fish and wildlife from the proposed or alternative projects as well as measures to mitigate these impacts.

1.5.6 STATE OF ALASKA

The State of Alaska has special expertise with regard to land use, pipeline ROW issues, and fish and game habitat, as well as environmental protection standards to mine operations applicable in Alaska. Donlin Gold will be responsible for applying for all necessary state permits and authorizations separate from the NEPA process (Appendix AA). Participation as a cooperating agency does not satisfy any State of Alaska permitting or authorization requirements for Donlin Gold and does not imply State of Alaska concurrence with any decisions or conclusions reached by the Corps.

1.5.7 VILLAGE OF CROOKED CREEK

The Village of Crooked Creek is a federally recognized tribe and has the closest proximity to the Donlin Gold Project. The Crooked Creek Traditional Council is acknowledged as having a government-to-government relationship with the United States; with the responsibilities, powers, limitations, and obligations attached to that designation.

The descriptions of the cooperating tribal governments were created largely using their own words.

1.5.8 NAPAIMUTE TRADITIONAL COUNCIL

The Village of Napaimute, a federally recognized tribe, is located on the north bank of the Kuskokwim River approximately 28 miles east of Aniak in the Kilbuck-Kuskokwim Mountains and is represented by the tribal government, the Napaimute Traditional Council.

⁴ The USFWS leads the interagency scientific and administrative staff to support the Federal Subsistence Board in implementation of the Federal Subsistence Management Program. This program applies on federal public lands in Alaska, including lands managed by the USFWS, NPS, BLM, and USDA Forest Service. Federal subsistence fishing regulations apply on inland navigable and non-navigable waters within the exterior bounds of the federal conservation units, such as National Wildlife Refuges, National Parks, and National Forests, as well as national conservation and recreations units managed by the BLM.

1.5.9 CHUATHBALUK TRADITIONAL COUNCIL/CENTER FOR SCIENCE IN PUBLIC PARTICIPATION

Located on the Kuskokwim River approximately 10 miles east of Aniak, the federally recognized tribe of the Native Village of Chuathbaluk is represented by the Chuathbaluk Traditional Council.

The Chuathbaluk Traditional Council has retained the services of the Center for Science in Public Participation (CSP2). Acting as a consultant, CSP2 does not serve directly as a cooperating agency, but instead provides technical advice and comments to the Chuathbaluk Traditional Council.

1.5.10 ANIAK TRADITIONAL COUNCIL

The community of Aniak is approximately 70 river miles downstream on the Kuskokwim River from Crooked Creek, the closest village to the Donlin Gold Project. Aniak is also the main hub for the middle Kuskokwim and lower mid-Yukon villages. The Aniak Traditional Council is a federally recognized tribal government for the community of Aniak.

1.5.11 KNIK TRIBAL COUNCIL

The Knik Tribal Council (KTC), a federally recognized tribe, provides state and federally contracted social, educational, and economic development services to tribal members in the Upper Cook Inlet region of Alaska. Located in southcentral Alaska, KTC has the largest Alaska Native Village Service Area (ANVSA) for a single tribal government covering over 25,000 square miles. There are over 10,000 Alaska Native and Indian people residing within this service area.

1.5.12 AKIAK TRIBE/KUSKOKWIM RIVER WATERSHED COUNCIL

The Akiak Native Community is a federally recognized tribe with a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation.

The Akiak Native Community has an agreement with the Kuskokwim River Watershed Council to act as a consultant to Akiak Native Community which serves as the cooperating agency in the Donlin Gold EIS process.

Additional information about cooperating agency jurisdiction and authorities is presented in Appendix AA.

1.6 SCOPING AND PUBLIC OUTREACH

NEPA requires “scoping” which is described in 40 CFR 1501.7 as “an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. The process shall be termed scoping.” A Public Involvement Plan was developed prior to scoping to provide the basis for the Corps and the cooperating agencies to provide guidance for the public outreach activities. A total of 14 public scoping meetings were held between January and March of 2013. Details about the scoping notice, public scoping meetings, agency scoping meetings, comments received during scoping, and additional public

outreach are discussed in Chapter 6, Consultation. The Scoping Report is included in Appendix B.

1.7 SUMMARY OF PERMITS, APPROVALS, AND CONSULTATIONS REQUIRED

The Donlin Gold Project will require over 100 permits from federal, state, and local governments. For a summary listing of the permits, the action agencies, and the underlying authorities, see Appendix AA, Additional Regulatory Framework Information, which provides the key permits and authorizations necessary for approval of a project that would meet the “purposes and needs” described within this chapter. Key federal laws and Executive Orders pertaining to this EIS are described in Appendix AA.