

**Response to Comments Document
Draft Waste Management Permit No. 2018DB0001 and
Draft Plan of Operations Approval (F20189500) for the
Pogo Mine**

This document summarizes and addresses comments received on the Alaska Department of Environmental Conservation (DEC), draft Waste Management Permit (WMP) No. 2018DB0001 and the Alaska Department of Natural Resources (DNR), draft Plan of Operations Approval (F20189500). The WMP regulates the containment and disposal of mine tailings, waste rock, wastewater, and other mine-related wastes at Pogo Mine. Sumitomo Metal Mining Pogo LLC (Pogo) operates the Pogo Mine on state land located 38 miles northeast of Delta Junction, Alaska and 85 miles east-southeast of Fairbanks, Alaska. The state received comments from one party Sumitomo Metal Mining Pogo LLC during the public notice period from April 13, 2018 through May 14, 2017.

Permit-specific comments on the draft DEC permit and draft DNR approval and the state's responses to those comments are contained in the table on the following pages.

Responses to Comments on draft Waste Management Permit No. 2018DB0001 and draft Plan of Operations Approval (F20189500) for Pogo Mine

Comment #	Commenter	Comment	Comment Response
1	Pogo	Regarding Section 1.1.2 of the draft Waste Management Permit, please delete the reference to the <i>Basis of Reclamation Cost Estimate, Pogo Mine, Alaska</i> . The cost spreadsheets do not contain and are not intended to contain requirements regarding mine operations.	The comment accurately points out that the <i>Basis of Reclamation Cost Estimate, Pogo Mine, Alaska</i> imposes no requirements on the permittee. Instead, it provides documentation supporting the financial assurance amount. Reference to the <i>Basis of Reclamation Cost Estimate, Pogo Mine, Alaska</i> has been removed from Section 1.1.2 as suggested.
2	Pogo	Regarding Section 1.2.2.10 of the draft Waste Management Permit, please change “batteries” to “lead-acid batteries” similar to Waste Management Permits for other large mines in Alaska.	Section 1.2.2.10 has been changed to read “lead-acid batteries.” It is now consistent with similar Waste Management Permits.
3	Pogo	Regarding Section 1.2.9 of the draft Waste Management Permit, please consider revising the beginning of the third sentence as follows and add the following additional waste streams: “The limitations also do not preclude, and authorization is hereby given for, disposal of non-hazardous waste either underground or in discrete cells in the DSTF , such as (i) ... (xv) concrete slabs, scrap lumber, pipe and similar wastes; (xvi) empty drums and containers that have been triple-rinsed; (xvii) non-lead acid batteries; and (xviii) such other material as would otherwise be disposed of in a surface landfill without special handling.” These additional waste streams have been included in other Waste Management Permits issued by DEC to large mines.	Section 1.2.9 has been changed incorporating the suggestions provided in the comment.

4	Pogo	<p>Regarding Section 1.2.10 of the draft Waste Management Permit, please note the following suggestions.</p> <p>1) Consider adding the bold print language, “For WAD cyanide with a MDL equal to 10 µg/L and ML equal to 20 µg/L (which is the compliance level), values between the MDL and ML provide a margin of safety indicating increasing trends prior to any exceedances.”</p> <p>2) Since Pogo is required to submit quarterly reports within 60 days of the end of the calendar quarter and annually on March 1st, verbally reporting within 60 days of the end of the calendar quarter and providing additional written notice 7 days thereafter seems excessive. Replace as follows, “Based on the rate and magnitude of a trend, the department may require corrective action according to section Error! Reference source not found. to prevent environmental harm. When lab results are between the MDL and ML, the permittee shall verbally notify the department within 60 days of the end of the calendar quarter when it occurred and provide written notification within seven days of verbal notice. With the quarterly and annual reports in Section 1.6, permittee shall report when the WAD cyanide lab results are between the MDL and ML. If successive quarterly reports show a trend that could result in an exceedance of the compliance level, the department may require corrective action according to Section 1.7 to prevent environmental harm.”</p>	<p>As for 1), the language in bold has been added.</p> <p>Regarding 2), the permit requires verbal notification 60 days after the end of the quarter because that is when each quarterly monitoring report is due. Since assembling and submitting the quarterly report allows the permittee to examine cyanide data, the best time to provide verbal notification is when a quarterly report is submitted, and it avoids the chance of this information being overlooked in a report. Verbal notice and a follow-up email serves the permittee and DEC with transparency in assessing each situation on a case by case basis. No permit changes resulted from this comment.</p>
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5	Pogo	<p>Regarding Section 1.4.2 of the draft Waste Management Permit, please note the following suggestion.</p> <p>1) Consider adding the language in bold, “The seepage system shall be operated to ensure that the Pogo Mine operates as a zero discharge facility, except for the discharges permitted under APDES Permit No. AK0053341, APDES Multi-Sector General Permit No. AKR060000 or other effective APDES permit specifically authorizing a discharge at the facility, which are excluded from this permit.” These revisions are consistent with the text of Section 1.4.1</p>	<p>The suggested language has been added.</p>
6	Pogo	<p>Regarding Section 1.4.10 of the draft Waste Management Permit, consider adding the language in bold. “The permittee shall report spills of hazardous substances according to 18 AAC 75 or as required under an agreement with the department’s Spill Prevention and Response Program at http://dec.alaska.gov/spar/spillreport.htm. Pogo does not currently have an agreement with SPAR for reporting hazardous substances.”</p>	<p>The suggested language has been added.</p>
7	Pogo	<p>In Section 1.5.3 of the draft Waste Management Permit, consider revising the first sentence as follows. “The permittee must implement the Pogo Quality Assurance Plan (October 2017) (QAP) for all monitoring required by this permit.”</p>	<p>Since the <i>Pogo Quality Assurance Plan</i> (January 2017) was submitted with the permit application and adopted by reference on the permit’s title page and Section 1.1.2, the suggestion lacks benefit. Additionally, Section 1.5.3 requires updating the QAP within 60 days of permit issuance, which negates any benefit in applying a date to the QAP in this section. Insertion of “the” is the only permit change resulting from this comment.</p>

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8	Pogo	<p>In Section 1.6.3.3 of the draft Waste Management Permit, consider revising as follows. “Address the adequacy of the financial responsibility. Permittee shall review the Pogo Reclamation and Closure Plan (February 2017) and facility conditions to assess whether any significant changes have occurred which would increase or decrease the financial responsibility. Permittee is not required to complete a detailed engineering review or submit a new site reclamation cost model with the Annual Report.”</p>	<p>Based on the comment, Section 1.6.3.3 has been changed, and it now reads as follows. “Address the adequacy of the financial responsibility. The permittee shall review the Pogo Reclamation and Closure Plan and facility conditions assessing changes that have significantly impacted the financial responsibility amount. The permittee is not required to complete a detailed engineering review or submit a new reclamation cost model with the annual report.”</p>
9	Pogo	<p>In Section 1.6.6 of the draft Waste Management Permit, consider revising as follows. “Any onsite wildlife (large game) casualties associated with the activities authorized under this permit shall be verbally reported to ADEC and the Alaska Department of Fish and Game within five working days of discovery and shall be identified in the quarterly and annual reports under sections 1.6.2 and 1.6.3.”</p>	<p>Consistent with similar Waste Management Permits, wildlife casualties are to be reported, not just large game, within one working day of discovery. However, it now specifies verbal notification instead of merely notification. Based on the comment, Section 1.6.6 has been changed, and it now reads as follows. “Any onsite wildlife casualties associated with facility activities shall be verbally reported to the department within one working day of discovery.”</p>

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10	Pogo	<p>Regarding Section 1.11 of the draft Waste Management Permit, please consider removing the sentence “The intent of the audit is to evaluate whether both Pogo Mine management and DEC permit administration provide reasonable assurances that the facility and environmental controls are functioning as intended.” and make minor revisions so that it reads as follows.</p> <p>“A periodic third-party environmental audit shall be completed during the final year of the permit term or sooner if final closure starts during the permit term. However, the field inspection portion of the audit shall be conducted during the snow free season the year before permit expiration. The environmental audit shall verify Pogo Mine’s compliance with the terms and conditions of this permit and applicable environmental laws associated with this permit. The environmental audit shall also include an evaluation of the adequacy of the approved financial assurance. The third-party contractor should be mutually agreed on by the State and Pogo Mine, but in the event that agreement cannot be reached, the State retains the final contractor selection decision. Costs for the third-party contractor shall be borne by Pogo Mine.”</p>	<p>Most minor revisions were made as suggested. However, the suggestion to remove the sentence describing the audit’s intention was rejected, and it was retained.</p> <p>Section 1.11 now reads, “A third-party environmental audit shall be completed during the final year of the permit term or sooner if final closure starts during the permit term. However, the field inspection portion of the audit shall be conducted during the snow free season the year before permit expiration. The audit will include all aspects of this Waste Management Permit. The environmental audit shall verify Pogo Mine’s compliance with applicable environmental laws associated with this permit. The third party contractor should be mutually agreed on by the State and Pogo Mine, but in the event that agreement cannot be reached, the State retains the final contractor selection decision. Costs for the third-party contractor shall be borne by Pogo Mine. The intent of the audit is to evaluate whether both Pogo Mine management and DEC permit administration provide reasonable assurances that the facility and environmental controls are functioning as intended. The environmental audit shall include an evaluation of the adequacy of the approved financial assurance.”</p>
11	Pogo	<p>In the draft Waste Management Permit, please update the facility map with the most current version that has been provided.</p>	<p>The facility map has been updated as suggested.</p>

Responses to Comments on draft Waste Management Permit No. 2018DB0001 and draft Plan of Operations Approval (F20189500) for Pogo Mine

12	Pogo	<p>The draft Plan of Operations Approval does not consistently refer to the Plan of Operations Approval. Suggest that ADNR consistently refer to Plan of Operations Approval as either the “Plan of Operations Approval” or the “Plan Approval” throughout the document to avoid confusion.</p>	<p>The “Plan of Operations Approval” is the correct term and is shortened to “Plan Approval” in many instances to simplify the wording. It is also used in general stipulation’s that apply to the two different authorization’s we issue, including the “Reclamation Plan Approval” that is issued in some cases. Many of these stipulations apply in all cases without regard for type of approval and “Plan Approval” is a catch-all. If we used “Plan of Operations Approval” in all references the document would read more awkwardly than it already does. In some cases we will revise the wording to “Plan of Operations Approval” to be more specific when appropriate.</p> <p>To minimize confusion, we also added the following sentence near the beginning of the document. “Any reference to the ‘Plan Approval’, is a reference to the ‘Plan of Operations Approval’.”</p>
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13	Pogo	<p>Regarding <i>General Stipulations – Reporting</i> in the draft Plan of Operations Approval, please revise to read as follows. “The results of monitoring, required under this Plan Approval and the Waste Management Permit issued the Alaska Department of Environmental Conservation (unless otherwise indicated by the Authorized Officer), obtained during a reporting period shall be summarized and submitted to the Authorized Officer or designee quarterly, no later than 60 days after the last day of the quarter, in an electronic format acceptable to ADNR. An annual report will be due by March 1st and shall summarize activities (surface disturbance, reclamation, mining, leaching and milling) conducted during the previous calendar year and include fourth quarter monitoring data. The annual report shall also address the adequacy of the financial responsibility. Permittee shall review the Pogo Reclamation and Closure Plan (February 2017) and facility conditions to assess whether any significant changes have occurred which would increase or decrease the financial responsibility. Permittee is not required to complete a detailed engineering review or submit a new site reclamation cost model with the annual report. Electronic copies should also be sent to ADNR (Jim Vohden at jim.vohden@alaska.gov and dnr.water.reports@alaska.gov, Brent Martellaro at brent.martellaro@alaska.gov, and Audra Brase at audra.brased@alaska.gov), and Alaska Department of Environmental Conservation (ADEC) (Tim Pilon at tim.pilon@alaska.gov). Amendments to this distribution list will be provided to the Permittee as needed.”</p>	<p>Based on the comment <i>General Stipulations – Reporting</i> has been changed to read as follows. “The results of monitoring, required under this Plan Approval obtained during a reporting period shall be summarized and submitted to the Authorized Officer or designee quarterly, no later than 60 days after the last day of the quarter, in an electronic format acceptable to ADNR. An annual report will be due by March 1st and shall summarize activities (surface disturbance, reclamation, mining, leaching and milling) conducted during the previous calendar year and include fourth quarter monitoring data. The annual report shall also address the adequacy of the financial responsibility. Permittee shall review the Pogo Reclamation and Closure Plan (February 2017) and facility conditions to assess whether any significant changes have occurred which would increase or decrease the financial responsibility. Permittee is not required to complete a detailed engineering review or submit a new site reclamation cost model with the annual report. Electronic copies should be sent to ADNR (Jim Vohden at jim.vohden@alaska.gov, dnr.water.reports@alaska.gov, and Brent Martellaro at brent.martellaro@alaska.gov), Alaska Department of Fish and Game (Audra Brase at audra.brased@alaska.gov), and Alaska Department of Environmental Conservation (Tim Pilon at tim.pilon@alaska.gov). Amendments to this distribution list will be provided to the Permittee as needed.”</p>
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14	Pogo	<p>Regarding <i>General Stipulations – Reporting</i> in the draft Plan of Operations Approval, please revise to read as follows. “A periodic third-party environmental audit shall be completed during the final year of this Plan Approval or sooner if final closure starts before the expiration this Plan Approval. However, the field inspection portion of the audit shall be conducted during the snow free season the year before permit expiration. The environmental audit shall verify Pogo Mine’s compliance with the terms and conditions of this Plan Approval and the applicable environmental laws associated with this Plan Approval. The environmental audit shall also include an evaluation of the adequacy of the approved financial assurance. The third party contractor should be mutually agreed on by the State and Pogo Mine, but in the event that agreement cannot be reached, the State retains the final contractor selection decision. Costs for the third-party contractor shall be borne by Pogo Mine.”</p>	<p>Most minor revisions were made as suggested. However, the suggestion to remove the sentence describing the audit’s intention was rejected, and it was retained.</p> <p>The section now reads as follows. “A third-party environmental audit shall be completed during the final year of the permit term or sooner if final closure starts during the permit term. However, the field inspection portion of the audit shall be conducted during the snow free season the year before permit expiration. The audit will include all aspects of this Plan of Operations Approval. The environmental audit shall verify Pogo Mine’s compliance with applicable environmental laws associated with this permit. The third-party contractor should be mutually agreed on by the State and Pogo Mine, but in the event that agreement cannot be reached, the State retains the final contractor selection decision. Costs for the third-party contractor shall be borne by Pogo Mine. The intent of the audit is to evaluate whether both Pogo Mine management and DNR permit administration provide reasonable assurances that the facility and environmental controls are functioning as intended. The environmental audit shall include an evaluation of the adequacy of the approved financial assurance.”</p>
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15	Pogo	Regarding <i>Fuels and Hazardous Substances - Notification</i> in the draft Plan of Operations Approval, please revise to read as follows. "The permittee shall report spills of fuels and hazardous substances to ADNR and ADEC according to 18 AAC 75 or as required under an agreement with the department's Spill Prevention and Response Program at http://dec.alaska.gov/spar/spillreport.htm ."	DNR reporting requirements are independent of DEC's, and the language has been revised to the following. "The Permittee shall immediately notify ADNR by phone of <u>any</u> unauthorized discharge of oil to water, <u>any</u> discharge of hazardous substances (other than oil), and <u>any</u> discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported to ADNR. The ADNR 24 hour incident notification number is (907) 451-2678; the Fax number is (907) 451-2751. ADNR shall be supplied with all follow-up incident reports."
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