



State Mining Claims in Alaska

Mining Rights
and
Mineral Property Management

MINERAL RIGHTS

- Any individual can do a limited amount of mining on State land without a permit
 - 11 AAC 96.020(3)(E)-(G)
 - This includes:
 - Recreational gold panning
 - Hard-rock prospecting using light equipment (pick, shovel, auger, etc.)
 - Suction dredging, less than 6 inch nozzle
- Upon discovery of a mineral deposit, a miner can claim those *locatable minerals* (generally speaking, metallic minerals)
 - AS 38.05.195
 - Some areas are not open to claim
 - Once properly claimed, no one else can take locatable minerals from that area, so long as the claim is in effect
 - When abandoned, someone else can stake that claim
- The State also leases the rights to these minerals in some areas
 - AS 38.05.205 and AS 38.05.250

MINERAL RIGHTS - HISTORY

- California Gold Rush
 - No federal statute governing mining on public land
- General Mining Act of 1872
 - Codified general practice of staking claims
 - Note: Whenever state law is silent on an issue, the state looks to federal law per AS 38.05.185(c)
- Mineral Leasing Act of 1920
 - Separated strategic minerals from “locatable minerals”
- Alaska State Constitution Article 8, Section 11
 - Protected existing federal claims and maintained location system
- Alaska Statehood Act/Trustees vs State (1989)
 - Prohibited the state from selling mineral rights
 - State required to charge rent/royalty

TERMINOLOGY

- A “**mining claim**” is an exclusive right to minerals located within the claim, but does not convey any exclusive property rights to the surface estate.
- A “**leasehold location**” is an exclusive right to minerals located on land restricted to mining under a lease or split estate
 - Example:
 - municipal entitlement
 - DOT right of way
 - Other legislatively designated areas
- A “**lease**” is a contractual agreement between a miner and the State
- A “**prospecting site**” is an exclusive right to prospect for minerals and does not require prior discovery.
- An “**at-risk state selected location**” establishes a preferential mining right on lands for selection with the United States under section 6 of the Alaska Statehood Act that has not been conveyed to the state or rejected.

SIZES AND SHAPES OF MINING LOCATIONS

- All mining locations are subject to the requirements of Alaska Statute and Regulations.
- Meridian, Township, Range, Sections, Claim (MTRSC) system locations are staked as:
 - Quarter section (160 acres)
 - Quarter-quarter section (40 acres)
- Traditional or “non-MTRSC location” are not restricted to aliquot parts
 - No greater than 40 acres
 - May not exceed 1,320 feet in any one direction
 - Boundaries must be in the cardinal direction (N-S, E-W) when practical
 - Commissioner has authority to wave this requirement
 - Examples: Tideland, River Bottom, Fractional Claims

REQUIREMENTS FOR MAKING A MINING CLAIM

- A claimant must be qualified under AS 38.05.190
- A discovery of minerals eligible for claim must be located
 - AS 38.05.195(a)
- The locator must physically stake the corners of the claim
 - AS 38.05.195(b)
- The locator must record a certificate of location
 - AS 38.05.195(c)
- The land must not already be claimed
- The land must be open for mineral claims
- If these criteria are met, “the locator has exclusive right of possession and extraction of the minerals lying within the boundaries of the claim” – AS 38.05.195(a)
 - Note that mining claims are self-initiated rights, DNR does not “approve” or “award” mining claims

MAINTAINING A MINING LOCATION

- The claimant must:
 - Conduct at least \$100 of labor on each 40 acre claim (\$400 on 160 acres), and properly record a statement as evidence
 - AS 38.05.210
 - Make annual rental payments
 - AS 38.05.211
 - Pay royalties on any production
 - AS 38.05.212
- A failure to do any of the above constitutes abandonment of the claim
 - AS 38.05.265
- Any claim that is abandoned is eligible for staking by any other locator

ANNUAL LABOR

- “Labor” is defined broadly in AS 38.05.210 and AS 38.05.240
- A locator can pay cash in lieu of labor for 5 consecutive years
 - AS 38.05.210(a) and 11 AAC 86.220(h)
- A locator must record a “statement of annual labor” each year as evidence that the annual labor requirement was met
 - This statement must be filed even if they paid cash in lieu of labor
- “A statement of annual labor that does not accurately set out the essential facts is void and of no effect” AS 38.05.265(a)
 - Essential facts are defined in 11 AAC 86.220(c)

STATEMENTS (AFFIDAVIT) OF ANNUAL LABOR

- Recording a statement of annual labor is prima facie evidence the labor was performed
 - Must be properly recorded within 90 days of September 1
 - Must include the essential facts required by the commissioner or else it is void
- Essential facts - 11 AAC 86.220(c)
 - Name or number of the mining location
 - **Every** Meridian, Township, Range, Section, and Recording District
 - Name and mailing address of **each** owner
 - Dates, character, and value of labor performed, or the amount of cash-in-lieu
 - Value of excess work to be provided from previous years
- If any errors of essential facts are on the recorded statement, another locator could argue that the claim was abandoned and available for claiming

OPPORTUNITIES TO CURE AN ABANDONMENT FROM STATEMENT (AFFIDAVIT) ERRORS

- Can potentially be amended within two years to correct the error
 - AS 38.05.210(c)
- Can be cured by re-recording the statement and paying a fee, unless the claim is over-staked
 - AS 38.05.265(b)
- In certain circumstances, can request a “certificate of substantial compliance,” unless the claim is over-staked while abandoned
 - AS 38.05.185(b) and 11 AAC 86.125
- Can re-stake the claim, after 1 year waiting period

RENT

(AS 38.05.211 as adjusted in 11 AAC 86.221)

- Based on the size and age of a mining claim/location

Size/Age	0 – 5 years	6 – 10 years	> 10 years
40 acres or less	\$35.00	\$70.00	\$170.00
160 acres	\$140.00	\$280.00	\$680.00
Mining Leases	\$0.88/acre	\$1.75/acre	\$4.25/acre

- Every 10 years the rent is adjusted for inflation based on the Consumer Price Index for all urban consumers (CPI-U) for the Anchorage Metropolitan Area -AS 38.05.211 (d)
 - Next adjustment due in 2019

PRODUCTION ROYALTY

(AS 38.05.212)

- All claims, leasehold locations, and leases on State land
- 3% of net income as determined under the mining license tax law (AS 43.65)
- Rent is credited against production royalty for claims/leases in production - AS 38.05.211 (c)

MINERAL PROPERTY MANAGEMENT

- Consists of 7 positions, including management
- Maintains and administers mineral property on state and state-selected lands:
 - 34,461 Active State Mining Claims
 - 47 Upland Mining Leases
 - 80 Offshore Mining Leases
- New records administered in 2017:
 - 3,848 Mining Locations
 - 1,839 Ownership Transfers
 - 47 Prospecting Sites
 - 2 Mining Leases
- Collected over \$7 million in rental payments last year