

**01/22/2018**

**Overview:**

**Alaska's**

**Mining**

**Filing**

**Claim**

**Process**

<TARGET><BILL></BILL><SUBJECT>01-22-2018 Overview  
Alaska's Mining Filing Claim  
Process</SUBJECT><COMM>SRES30</COMM></TARGET>



# 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