

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

2792 SRES MINING LEASE REGS - N. ANCH. LAND AGREEMENT

2792

TITLE 11. NATURAL RESOURCES.

Chapter

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82. Mineral Leasing Procedure (11 AAC 82.100 -- 11 AAC 82.815)

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86. Mining Rights (11 AAC 86.100 -- 11 AAC 86.835 [750])

CHAPTER 82. MINERAL LEASING PROCEDURE.

11 AAC 82.635(a) is amended to read:

11 AAC 82.635. SURRENDERS. (a) All of the land in a lease or permit may be surrendered by the lessee or permittee of record by filing a written surrender at the [A] appropriate [FILING] office of the department. A surrender of any legal subdivision of the lease or permit land [A PORTION OF THE LAND], or of a separate and distinct zone or geological horizon in all or a portion of the land, is not effective unless approved by the commissioner.

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(Eff. 9/5/74, Register 53; am 7/22/79, Register 71; am / / , Register)

Authority: AS 38.05.020
AS 38.05.145(a)

CHAPTER 86. MINING RIGHTS.

Article

- 1. General Provisions (11 AAC 86.100 -- 11 AAC 86.155) [140]
- 2. Staking, Recording and Maintaining Claims and Leasehold Locations (11 AAC 86.200 -- 11 AAC 86.230)
- 3. Upland Mining Leases (11 AAC 86.300 -- 11 AAC 86.312 [.325])
- 4. Prospecting Sites (11 AAC 86.400 -- 11 AAC 86.435)
- 5. Offshore Prospecting Permits and Leases (11 AAC 86.500 -- 11 AAC 86.580) [.570]

- 7. Mining Production Licenses (11 AAC 86.700 -- 11 AAC 86.750)
- 8. General Prospecting Permit and Lease Provisions (11 AAC 86.800 -- 11 AAC 86.820)

ARTICLE 1. GENERAL PROVISIONS.

Section

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115. Locations prior to tentative approval

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125. Failure to comply
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135. Mineral deposits open to location

145. Surface use

150. Plan of operations in lieu of land use permit

155. Definitions

11 AAC 86.115 is amended to read:

Even if state gets land, may classify it non-mining. Period risk may be 10 12 yrs.

11 AAC 86.115. LOCATIONS PRIOR TO TENTATIVE APPROVAL.

(b) If [SUCH] these locations are made in accordance with this chapter, they constitute [VALID] mining claims, leasehold locations, or prospecting sites upon receipt by the state of tentative approval from the selection for the federal government, subject, however, to the provisions of the tentative approval and to mineral closures or leasehold location orders issued [LAND CLASSIFICATION] by the state before or within one year after receipt of tentative approval. This subsection is also applicable to locations on state-selected land that were made before the effective date of this amendment.

state must file 1 yr. of A claim
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to 200

(c) No mining lease under AS 38.05.205 or mining production license under AS 38.05.207 may be issued on state-selected land for which the state has not yet received tentative approval. (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS.38.05.275

11 AAC 86.125 is amended to read:

11 AAC 86.125. FAILURE TO COMPLY.

(b) An application for a certificate of substantial compliance must [SHALL] include the name and address of the owner, the name of the location, and the serial number (if any) assigned by the department to the location or lease, and must state the specific failure to comply, the reasons for the failure, and any other information the director may determine is necessary to determine the circumstances of the case. (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.020(b)(1)
AS 38.05.035(a)(4)
AS 38.05.185(b)

11 AAC 86.135 is amended to read:

11 AAC 86.135. MINERAL DEPOSITS OPEN TO LOCATION. (a) Deposits of locatable minerals, except on tide and submerged lands as specified in (c) of this section, may be acquired by staking locations [CLAIM.] in conformance with AS 38.05.195, AS 38.05.205, and 11 AAC 86.200 -- 11 AAC 86.230 unless [IF] the deposits are in or on state land that was closed to location before the dates of discovery and posting the notice of location [IS IN ONE OR MORE OF THE FOLLOWING CLASSIFICATIONS AT THE TIME DESCRIPTION OF THE LAND CLAIMED IS RECEIVED AT THE PRINCIPAL OFFICE OF THE DIVISION:

- (1) GRAZING LAND;
- (2) MATERIAL LAND;
- (3) MINERAL LAND;
- (4) TIMBER LAND;
- (5) UNCLASSIFIED LAND; OR
- (6) UTILITY LAND.

IF DUAL OR MULTIPLE CLASSIFICATIONS INCLUDE ANY CLASSIFICATIONS OTHER THAN THOSE LISTED ABOVE, MINERALS MAY BE ACQUIRED ONLY BY LEASING.]

(b) This section constitutes the commissioner's finding, in accordance with AS 38.05.185(a), that selling, leasing, or otherwise disposing of state land, with the mineral rights reserved to the state, creates potential use conflicts requiring that mining be allowed only under written leases. Unless closed to location, any locations made after such a disposal are leasehold locations. [DEPOSITS OF LOCATABLE MINERALS, EXCEPT ON TIDE AND SUBMERGED LANDS AS SPECIFIED IN (c) OF THIS SECTION, MAY BE ACQUIRED ONLY BY MINING LEASING IN CONFORMANCE WITH AS 38.05.205 AND 11 AAC 86.300 -- 11 AAC 86.325 IF DEPOSITS ARE IN OR ON STATE LAND SOLD, LEASED, OR UNDER PERMIT BY THE STATE WITH THE MINERAL RIGHTS RESERVED TO THE STATE, OR IN ONE OF THE FOLLOWING CLASSIFICATIONS:

- (1) AGRICULTURAL LAND;
- (2) COMMERCIAL LAND;
- (3) PRIVATE RECREATION LAND;
- (4) PUBLIC RECREATION LAND;
- (5) RESIDENTIAL LAND;
- (6) RESERVED USE LAND;
- (7) INDUSTRIAL LAND;
- (8) WATERSHED LAND;
- (9) RESOURCE MANAGEMENT LAND;
- (10) OPEN-TO-ENTRY LAND;

(11) ANY CLASSIFICATION WHICH BY ITS TERMS LIMITS ACQUISITION OF MINERAL DEPOSITS TO LEASING ONLY.]

(c) Deposits of locatable minerals on tide and submerged lands may only be acquired under the provisions of AS 38.05.250 and [SECS.] 11 AAC 86.500 - 11 AAC 86.570, except that tide and submerged lands may be included in a [MINING CLAIM] location under AS 38.05.275 if two corners are [ON OR] above the line of mean high tide.

(d) If the land upon which a location [CLAIM] is staked is restricted to mining under lease [CLASSIFIED INTO ONE OF THE CLASSIFICATIONS LISTED IN (B) OF THIS SECTION AFTER THE CLAIM IS STAKED BUT] before the dates of discovery and location [THE DIVISION RECEIVES NOTICE OF THE CLAIM], the claimant has prior rights only to a [IS ENTITLED TO] lease [ONLY].

(e) Notice will be given under AS 38.05.345 before a mineral closing order or leasehold location order is issued, amended, or revoked.
(Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.185
AS 38.05.275
AS 38.05.300

11 AAC 86 is amended by adding new sections to read:

11 AAC 86.145. SURFACE USE. (a) A locator does not have exclusive use of the surface of the location. A locator may restrict public access to the surface of the location only if authorized to do so under an approved plan of operations or land use permit to protect public safety.

(b) Any surface structure built or placed within the boundaries of a mining property must be necessary for, and only used during, prospecting, extraction, or basic processing activities. Factors used to determine the necessity of building, placing, or using the structure will include: access to the property, remoteness of location, security of the operation, planned level of operation, and the current level of activity.

(c) A classification or designation indicating that timber and other forest products of significant value are included within a mining property is prima facie evidence that the land on which the property is located is considered to be "timberlands" under AS 38.05.255. The division of forestry must be contacted prior to using or clearing timber from timberlands. (Eff. / / , Register)

Authority: Art. VIII, sec.
11, Alaska Const.
AS 38.05.020
AS 38.05.035
AS 38.05.255
AS 38.05.365

11 AAC 86.150. PLAN OF OPERATIONS IN LIEU OF LAND USE PERMIT. On land not under a mining lease, a person intending to conduct mineral exploration or development activities that would require a land use permit under 11 AAC 96 may file a plan of operations for approval instead of applying for a land use permit. The plan of operations must meet the requirements of 11 AAC 86.800. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035

11 AAC 86.155. DEFINITIONS. As used in 11 AAC 86.100 -- 11 AAC 86.825

(1) "claim" or "mining claim" means a location made under AS 38.05.195;

(2) "leasehold" means the area held under a mining lease issued in accordance with AS 38.05.205;

(3) "leasehold location" means a location made under AS 38.05.205 for which a lease has not yet been issued. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.205

ARTICLE 2. STAKING, RECORDING AND MAINTAINING CLAIMS AND LEASEHOLD LOCATIONS.

Section

200. [Repealed]

210. Posting location notice

215. Certificate of location[; RECORDING]

230. [RECORDATION OF] Sale, lease, or other transfer

11 AAC 86.200 is repealed.

11 AAC 86.200. DISCOVERY REQUIRED. Repealed / / .

11 AAC 86.210 is amended to read:

11 AAC 86.210. POSTING LOCATION NOTICE. After making a discovery as defined in 11 AAC 86.105, the locator of a mining claim or leasehold location shall post a notice on the monument at the northeast corner of the location. The notice must contain

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(5) [THE NAME OF] each locator's name, [HIS] current mailing address, and [HIS] signature or the signature [THAT] of the locator's [AN AUTHORIZED] agent [REPRESENTING HIM]. (Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am / / , Register)

Authority: Art. VIII, sec.
11, Alaska Const.
AS 38.05.020
AS 38.05.195
AS 38.05.205

11 AAC 86.215 is amended to read:

11 AAC 86.215. CERTIFICATE OF LOCATION [; RECORDING]. (a) The locator of any mining claim or leasehold location on state land shall, within 90 days after the date of posting the notice of location on the location, record the location by filing a certificate of location in conformance with AS 38.05.195. The certificate of location must be recorded on a form provided by the division, an exact replica of that form, or on a form approved by the director, and must

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(4) contain [THE NAME OF] each locator's name, [HIS] current mailing address, and [HIS] signature (or the signature [THAT] of the locator's [AN] agent) [REPRESENTING HIM]

- - -

(6) include a map at an indicated scale of 1:63,360 (1 inch = 1 mile) or a more detailed scale which shows the boundaries of the claim or leasehold location, the dominant physical features of the land, the protracted or surveyed section lines surrounding the location [CLAIM] and, to the best of the locator's knowledge, the relationship of the location to adjacent and contiguous mining claims, leasehold locations and prospecting sites. If more than one contiguous location is being recorded simultaneously, a single map showing all of the locations may be attached to one of the certificates of location if the document to which the map is attached is cross-referenced on each certificate of location; and

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(b) Failure to file for record a certificate of location within the time provided constitutes an abandonment of the claim or leasehold location, and the land is open to location and reclassification. If a certificate is timely filed, but is otherwise an improper filing, an amended certificate of location must be filed for record by the locator within 90 days after receiving notification from the director that the filing is improper. Failure to file an amended certificate of location within the time limit constitutes abandonment of the location.

[(c) AFTER DECEMBER 31, 1983, A CERTIFICATE OF LOCATION OF A MINING CLAIM OR LEASEHOLD LOCATION MUST BE RECORDED ON A FORM PROVIDED BY THE DIVISION. BEFORE JANUARY 1, 1984, THE LOCATOR MAY RECORD A CERTIFICATE OF LOCATION ON A FORM OTHER THAN THE FORM PROVIDED BY THE DIVISION, IF IT COMPLIES WITH THE REQUIREMENTS OF (a)(1) - (7) OF THIS SECTION.]

[(d) IF A MINING CLAIM OR LEASEHOLD LOCATION CERTIFICATE OF LOCATION ON A FORM OTHER THAN THE FORM PROVIDED BY THE DIVISION, IS RECEIVED AFTER DECEMBER 31, 1983, THE DIVISION WILL SEND TO THE LOCATOR BY CERTIFIED MAIL NOTIFICATION OF REJECTION OF THE CERTIFICATE ALONG WITH THE APPROPRIATE FORM. AN AMENDED CERTIFICATE OF LOCATION MUST BE FILED FOR RECORD BY THE LOCATOR WITHIN 30 DAYS AFTER RECEIVING NOTIFICATION AND THE APPROPRIATE FORM. FAILURE TO FILE AN AMENDED CERTIFICATE OF LOCATION WITHIN THE TIME LIMIT CONSTITUTES ABANDONMENT OF THE LOCATION.]

(Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am / / , Register)

Authority: AS 38.05.020
 AS 38.05.195
 AS 38.05.200
 AS 38.05.205
 AS 38.05.265
 AS 44.37.025

11 AAC 86.220 is amended by adding a new subsection to read:

11 AAC 86.220. ANNUAL LABOR.

(g) This section applies to all leasehold locations for which work in lieu of rental is performed. Rental requirements for all leasehold locations are found in 11 AAC 86.308. (Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am / / , Register)

Authority: AS 27.05.010
 AS 38.05.020
 AS 38.05.210
 AS 38.05.240
 AS 38.05.280
 AS 44.37.025

11 AAC 86.230 is amended to read:

11 AAC 86.230. [RECORDATION OF] SALE, LEASE, OR OTHER TRANSFER. (a) If a mining claim or leasehold location on state land or any interest in one is sold, leased, or otherwise transferred, the sale, lease or other transfer [,] must be recorded within 90 days after the date of the transaction. The sale, lease, or other transfer document must include the current mailing address of all involved parties.

(b) A mining claim or leasehold location on state land may not be subdivided by means of sale, lease, or other transfer. Instead, the original location must be amended and a new location or locations made on the remaining ground before the transfer may take place. (Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am 7 / / , Register)

Authority: AS 38.05.020
AS 38.05.195
AS 38.05.270

ARTICLE 3. UPLAND MINING LEASES.

Section

- 300. Preference right by staking
- 305. Applications for lease
- 306. Conversion to lease
- 308. Rental
- 309. Showing of discovery
- 310. [Repealed]
- 311. Performance standards for mining leases
- 312. Lease duration
- 315. [Repealed]
- 320. [Repealed]
- 325. [Repealed]

11 AAC 86.300 is amended to read:

11 AAC 86.300. PREFERENCE RIGHT BY STAKING. The preference right acquired by establishing and maintaining [STAKING] a leasehold location [AND FILING FOR ONE] in compliance with 11 AAC 86.200 -- 11 AAC 86.300 remains in existence until a lease is issued, or until

(1) a lease is refused because of an existing prior right, prior land classification effective before September 7, 1983 that precludes mining, or prior mineral closing order; [, OR UNTIL]

(2) the leasehold location is abandoned through failure either to pay timely the annual rental and record timely the affidavit of that payment, or to perform work creditable to the rental and [OR TO] record timely the affidavit of the performance [SIGNED STATEMENT] of that [SUCH] work, as required by this chapter; [,] or

(3) the leasehold location is abandoned through failure to comply with the filing requirements of AS 38.05.205(a) and AS 38.05.205;

(4) the state's selection of the land is rejected or relinquished.
(Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.205

11 AAC 86.305 is amended to read:

11 AAC 86.305. APPLICATION FOR LEASE. (a) When the division receives [UPON THE RECEIPT BY THE DIVISION OF] a copy of a location certificate [AS PROVIDED IN AS 40.05.020] for a location on state land[S] open to mining only through [TO] leasing, the division will notify the locator of the leasing requirement.

b) The division will publish the notice required by AS 38.05.205(a) and subsequently mail a lease application to the locator only when: [AND FORWARD TO HIM APPLICATION FORMS TOGETHER WITH A STATEMENT OF CONDITIONS AND STIPULATIONS WHICH WILL BE INCORPORATED IN THE LEASE]

(1) it learns that the leasehold locator is ready to begin production or, where authorized by sec. 5, ch. 108, SLA 1981 as amended, is already producing;

(2) the leasehold locator requests a lease;

(3) the owner of a mining claim requests a lease; or

(4) circumstances such as conflicting resource uses or imminent disposals of other resources require the division to initiate conversion of a leasehold location to lease on its own motion.

(c) The division will not process lease applications received for locations on land selected by the State of Alaska for which the state has not received tentative approval or on other land to which the state does not hold title. [AN APPLICATION FOR LEASE MUST BE COMPLETED AND SUBMITTED TO THE DIVISION WITHIN 90 DAYS AFTER RECEIPT OF THE APPLICATION FORM BY THE LOCATOR; FAILURE TO COMPLETE THE APPLICATION WITHIN THE TIME LIMIT CONSTITUTES ABANDONMENT OF THE LOCATION. A MINING LEASE MAY BE ISSUED FOR ONE LEASEHOLD LOCATION OR FOR A GROUP OF CONTIGUOUS LOCATIONS. THE INITIAL PERIOD FOR WHICH RENT MUST BE PAID BEGINS ON SEPTEMBER 1 FOLLOWING THE DATE OF LOCATION.]

(d) The application must include a sworn affidavit stating for each mining claim or leasehold location

(1) that discovery, location, and filing were performed as required by law;

(2) the type and nature of the mineral discovery; and

(3) the position of the discovery in relation to the northeast corner of the location.

(e) Applications that do not meet the requirements of this section or that otherwise deviate from the form provided by the division will be rejected and returned to the applicant with an explanation of the reason for the rejection. An applicant may file another application after the rejection of a previous application. (Eff. 9/6/74, Register 51; am 12/31/82, Register 84; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.205

11 AAC 86 is amended by adding new sections to read:

11 AAC 86.306. CONVERSION TO LEASE. (a) Issuance of a lease under AS 38.05.205 is a disposal of an interest in land. After receiving the completed application, the director will prepare the written decision required by AS 38.05.035(a)(14) and will give notice of that decision in accordance with AS 38.05.301 and AS 38.05.345(b) and (c).

(b) A mining claim or leasehold location includes the right of conversion to lease. The lease will be issued after the director determines that the disposal will best serve the interests of the state (and, if the area is within the state's coastal zone, after the disposal is determined consistent with the state or approved district coastal management program). The decision will include any proposed lease conditions and stipulations.

(c) Processing the lease application will be halted or rejected if:

(1) the mining claim or leasehold location is on land selected by the state for which the State of Alaska has not received tentative approval or on other land to which the state does not hold title, in which case the lease application will be rejected until the title question has been resolved;

(2) conflicting rights are asserted by another locator and the division decides not to adjudicate the conflict, in which case processing will be halted and the parties will be advised to resolve the conflict. If possible, the director will notify the holders of apparent conflicting rights as shown on state status plats that a lease application is being processed;

(3) the land was not open to location when the mining claim or leasehold location was made; or

(4) the department determines, after a review of all filing documents, a field examination, or analysis of other information, that the prior requirements of AS 38.05.185-AS 38.05.280 have not been met.

(d) A leasehold made up of multiple mining claims or leasehold locations must be reasonably compact in form. The mining claims or leasehold locations to be included in the leasehold must share common boundaries. (Eff. / / , Register)

- Authority: AS 38.05.020
- AS 38.05.035
- AS 38.05.205
- AS 38.05.265
- AS 38.05.345
- AS 44.19.145
- AS 46.40.200

11 AAC 86.308. REITAL. (a) The general requirements for paying rental on leasehold locations or leaseholds are as follows:

(1) rental must be made payable to the Alaska Department of Revenue and be tendered to the Department of Natural Resources' Anchorage accounting office; it must be accompanied by a statement containing the owner's name and address, the serial number (if any) assigned by the department to the leasehold location or lease, and, if applicable, the name of the leasehold location;

(2) if more annual rental is paid, or work performed in lieu of rental, than is due under this section, the excess value up to \$800 may be applied against rental due during the subsequent year or years; excess value accrued for a leasehold location may be applied against rental due after conversion to lease.

(b) For leasehold locations,

(1) the rental year is the same as the annual labor year established under 11 AAC 86.220(a);

(2) the annual rental is \$200 per leasehold location;

(3) within the time specified in 11 AAC 86.220(c), the holder of a leasehold location shall

(A) pay the rental due, or perform work to be credited against rental due, or combine rental and work, and

(B) record an affidavit of that rental, work, or a combination of rental and work; a previous filing of excess rental or work in lieu of rental does not relieve the leasehold locator of the obligation to record an affidavit each year;

(4) If the rental obligation is not met and an affidavit of rental, work, or combined rental and work is not timely recorded, the leasehold location is considered abandoned under AS 38.05.265;

(5) if a rental payment is timely submitted to the department and the affidavit of rental is timely recorded, or an affidavit of work in lieu of rental is timely recorded, but the director finds that the payment made or the expenditures creditable against rental are less than \$200 per leasehold location, the locator will be granted 30 days from receipt of a notice from the director to submit the additional rental due; if the default is not corrected by the locator within 30 days, the leasehold location is terminated without further notice.

*located by
in mining
claim AS/acre
once have a
lease, work
- toward
production*

(c) For Teaseholds,

(1) the rental year begins on the effective date of the lease;

(2) rental during the first five years of the lease is \$10 per acre, increasing to \$15 per acre during the next five years of the lease, and increasing again to \$20 per acre during subsequent years;

(3) rental must be paid, or an affidavit of work submitted to the department, within 90 days after the anniversary date of the lease;

(4) the affidavit of work performed in lieu of rental must meet the requirements of 11 AAC 86.220(b)-(f), except that it need not be recorded;

(5) failure to timely submit a rental payment or affidavit of work terminates the lease under AS 38.05.265;

(6) if a rental payment or affidavit of work is timely submitted to the department, but the director finds that the payment made or the expenditures creditable against rental are less than the amount due, the mining lessee will be granted 30 days from receipt of a notice from the director to submit the additional rental due. If the default is not corrected by the mining lessee within 30 days, the lease is terminated without further notice;

(7) after detailed exploration of the lease has been completed, the director may, to encourage the greatest ultimate recovery of minerals and in the interest of conservation, approve the lessee's request for a reduction in rental if force majeure, depressed market conditions, or other situations beyond the reasonable control of the lessee make it uneconomic to perform enough work on the lease to offset the rental. (Eff. / / , Register)

SB 311
offshore

- Authority: AS 38.05.020
- AS 38.05.035
- AS 38.05.185
- AS 38.05.205
- AS 38.05.210
- AS 38.05.265

11 AAC 86.309. SHOWING OF DISCOVERY. (a) The director reserves the right to require a showing of discovery at any time if minerals are not being produced in commercial quantities on each of the mining claims or leasehold locations included within the leasehold. That showing must be based on the discovery originally sworn to when the lease was applied for, but the lessee may supplement the record with additional information at any time.

(b) The discovery affidavit in a lease application is not confidential, but any supplemental geological, geophysical, or engineering data supplied will be kept confidential at the lessee's request.

(c) Any mining claim or leasehold location that lacks a discovery is void and will be removed from the leasehold. (Eff. / / , Register)

- Authority: AS 38.05.020
- AS 38.05.035
- AS 38.05.205

11 AAC 86.310 is repealed.

11 AAC 86.310. BOND. Repealed / / .

11 AAC 86 is amended by adding new sections to read:

11 AAC 86.311. PERFORMANCE STANDARDS FOR MINING LEASES. In addition to any stipulations or conditions imposed specifically for the leased area, the following performance standards apply to leases issued under AS 38.05.205 unless otherwise specified by the director.

(1) Within 10 years after the effective date of the lease, the exterior boundary of the leasehold must be surveyed in accordance with 11 AAC 53 and under instructions issued by the department.

(2) The leasehold's exterior boundary must be kept brushed until the survey is completed; it is not necessary to clear interior boundaries where mining claims or leasehold locations included within the leasehold adjoin each other. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.130
AS 38.05.205

11 AAC 86.312. LEASE DURATION. A lease will be issued for 10 years, subject to renewal as provided in AS 38.05.205(-), (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.205

11 AAC 86.315 is repealed.

11 AAC 86.315. TERMINATION. Repealed / / .

11 AAC 86.320 is repealed.

11 AAC 86.320. RELINQUISHMENT. Repealed / / .

11 AAC 86.325 is repealed.

11 AAC 86.325. TRANSFERS. Repealed / /

ARTICLE 4. PROSPECTING SITES.

Section

- 405. Boundaries and corners
- 410. Prospecting site location notice and certificate of location
- 415. [RECORDATION OF] Sale, lease, or other transfer
- 420. [Repealed]
- 425. Prospecting work
- 430. [REQUEST FOR] Extension

11 AAC 86.405 is amended to read:

11 AAC 86.405. BOUNDARIES AND CORNERS. Boundaries and corners of a prospecting site must be marked in accordance with 11 AAC 86.205. [THE BOUNDARIES OF EACH PROSPECTING SITE SHALL BE MARKED SO THAT THEY CAN READILY BE TRACED ON THE GROUND; COLORED MARKINGS THAT CAN READILY BE SEEN FROM POINT

TO POINT ARE ADEQUATE FOR THIS PURPOSE. DOUBLE MARKINGS SHALL BE PROVIDED AT EACH CORNER. FAILURE OF THE LOCATOR OF A PROSPECTING SITE TO KEEP THE BOUNDARIES MARKED, AS REQUIRED IN THIS SECTION, OPENS THE AREA WITHIN THE SITE TO LOCATION BY OTHERS.] (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.245

11 AAC 86.410 is amended to read:

11 AAC 86.410. PROSPECTING SITE LOCATION AND NOTICE AND CERTIFICATE OF LOCATION. (a) On a monument at the northeast corner of the prospecting site location, the locator shall post notice. The notice must contain

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(5) [THE NAME OF] each locator's name, [HIS] current mailing address, and [HIS] signature or the signature [THAT] of the locator's [AN AUTHORIZED] agent [REPRESENTING HIM]. (Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am / /84, Register)

Authority: AS 38.05.020
AS 38.05.245
AS 38.05.265

11 AAC 86.415 is amended to read:

11 AAC 86.415. [RECORDATION OF] SALE, LEASE, OR OTHER TRANSFER. (a) If a prospecting site is sold, leased, or otherwise transferred, the sale, lease, or other transfer must be recorded within 90 days after the date of the sale, lease, or other transfer in the recording district in which the site is located. The sale or transfer document must include the current mailing address of all involved parties.

(b) A prospecting site may not be subdivided by sale, lease, or other transfer. Instead, the original prospecting site must be amended and a new location or locations made on the remaining ground before the transfer may take place. (Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am / / , Register)

Authority: AS 38.05.020
AS 38.05.245
AS 38.05.270

11 AAC 86.420. DURATION. Repealed / / .

11 AAC 86.425(b) is amended to read:

11 AAC 86.425. PROSPECTING WORK.

- - -

(b) The only prospecting work acceptable for holding prospecting sites is [DRILLING OR EXCAVATING, OR] geological, geophysical, or geochemical work by persons qualified to do such work. (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.245

11 AAC 86.430 is amended to read:

11 AAC 86.430. [REQUEST FOR] EXTENSION. [A REQUEST FOR EXTENSION OF A PROSPECTING SITE LOCATION MUST BE ACCOMPANIED BY A SIGNED STATEMENT OF WORK DESCRIBING IN DETAIL THE KIND AND AMOUNT OF WORK DONE SINCE THE DATE OF LOCATION OR SINCE THE DATE OF ANY PRIOR SIGNED STATEMENT. IT MUST ALSO BE ACCOMPANIED BY AN ESTIMATE OF THE AMOUNT OF EACH KIND OF WORK TO BE DONE BEFORE THE EXPIRATION DATE OF THE PROSPECTING SITE LOCATION OR CURRENT EXTENSION.] (a) An [NO] extension of a prospecting site will [MAY] be approved only if [UNLESS] a substantial part of the required work has been done before the application for extension is made.

(b) A request for extension of a prospecting site must be in writing and be filed with the division no later than 30 days before the prospecting site is due to expire.

(c) The request for extension must

(1) contain the name and current mailing address of each owner;

(2) contain the names and the serial numbers (if any) assigned by the department to the prospecting sites involved;

(3) explain the need for additional time to make discoveries;

(4) be accompanied by an affidavit describing in detail the character and value of the work that has been performed;

(5) include an overall work plan stating the kind and amount of work that remains to be performed; and,

(6) be signed by the owner or the owner's agent, and if signed by an agent, contain the current mailing address of that agent.

(d) The affidavit required under (c) of this section must comply with the provisions of 11 AAC 86.220(c) and (d), except that the recordation requirement does not apply.

(e) Acceptable survey work under 11 AAC 86.425(b) is only work that qualifies under AS 38.05.240.

(f) If an extension is granted, the notice of extension issued by the director must be recorded in the recording district in which the site is located within 90 days after the notice is issued. (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.240
AS 38.05.245(c)

ARTICLE 5. OFFSHORE PROSPECTING PERMITS AND LEASES.

Section

500. Permit applications

- - -

508. Additional performance standards

- - -

515. Compliance with permit rental requirement

- - -

525. [Repealed]

528. Permit extension

530. Conversion of an offshore prospecting permit to a mining lease

532. Lease duration

535. Survey and monumentation required

540. Lease rental

545. Leases granted by competitive bidding

550. [Repealed]

555. [Repealed]

560. [Repealed]

- - -

570. [Repealed]

575. Lease extension

580. Suspension

11 AAC 86.500. PERMIT APPLICATIONS. (a) The [NONCOMPETITIVE] procedures of 11 AAC 82.105, 11 AAC 82.110, 11 AAC 82.200, 11 AAC 82.205, 11 AAC 82.300, 11 AAC 82.305, and 11 AAC 82.500 -- 11 AAC 82.540 apply to offshore prospecting permits.

- - -

(g) An offshore prospecting permit issued under this section is a disposal of an interest in land and is subject to requirements of AS 38.05.035(a)(14), AS 38.05.301 [38.06.301], AS 38.05.345, and AS 38.05.346. The filing of an application for an offshore prospecting permit does not vest

a property right but merely creates a priority right to any permit that may be issued. The filing of an application segregates the locatable minerals in the tract applied for. Until the application is adjudicated, those minerals are unavailable for location under AS 38.05.275. Prospecting permit applications filed will be shown as soon as possible on the department's land records and will immediately be entered on a list available by mail from the division. (Eff. 9/5/74, Register 51; am 1/1/83, Register 85; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.250

11 AAC 86 is amended by adding a new section to read:

11 AAC 86.508. ADDITIONAL PERFORMANCE STANDARDS. In addition to any stipulations or conditions imposed specifically for the lease or prospecting permit area, the following performance standards apply to offshore permits or leases issued under AS 38.05.250 unless otherwise specified by the director.

(1) Construction of marine facilities must be limited to the minimum necessary for the approved exploration and reclamation activities.

(2) Dredge spoils must be redeposited in the areas disturbed by dredging.

(3) Except for small and temporary diversions of water around marine facilities, drill pads, and support facilities, water may not be diverted. Dredging, filling, and the construction of facilities must be designed to minimize changes in the coastline's natural regime of tidal deposition and erosion. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.250

11 AAC 86.515 is amended to read:

11 AAC 86.515. COMPLIANCE WITH PERMIT RENTAL REQUIREMENT.

(c) Failure to timely submit a rental payment or affidavit of work terminates the offshore prospecting permit under AS 38.05.265.

(d) If the payment made or the expenditures creditable against rental are less than \$3 per acre, the permittee will be granted 30 days from receipt

of a notice from the director to submit the additional rental due. If the default is not corrected by the permittee within the time allowed in the notice, the offshore prospecting permit expires without further notice. (Eff. 9/5/74, Register 51; am 1/1/83, Register 85; am / / , Register)

Authority: AS 38.05.020(b)(1)
AS 38.05.035(a)(4)
AS 38.05.250
AS 38.05.265

11 AAC 86.525 is repealed.

11 AAC 86.525. FAILURE TO COMPLY. Repealed / / .

11 AAC 86 is amended by adding a new section to read:

11 AAC 86.528. PERMIT EXTENSION. A permit will not be extended or renewed. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.250

11 AAC 86.530 is amended to read:

11 AAC 86.530. CONVERSION OF AN OFFSHORE PROSPECTING PERMIT TO A MINING LEASE. (a) At any time while a permit is in effect, [IF THE PERMITTEE SHOWS TO THE SATISFACTION OF THE COMMISSIONER THAT THE LAND COVERED BY THE PERMIT CONTAINS WORKABLE MINERAL DEPOSITS,] the permittee is entitled to a noncompetitive mining lease on that [ALL OR] part of the permit area that has been shown to the satisfaction of the director to contain workable mineral deposits or to be needed for full utilization of those deposits [LAND COVERED BY THE PERMIT, IF THE TRACT COVERED BY THE LEASE IS IN COMPACT FORM]. The land leased will be described by legal subdivision according to the official survey or to the official protraction diagram approved by the Bureau of Land Management or the Department of Natural Resources [A PROTRACTED SURVEY].

(b) An application[S] to convert a permit to a noncompetitive mining lease must be filed in accordance with 11 AAC 88.105. If the application is filed before the permit expires, the permit's expiration is postponed while the application is being acted on. In the meantime the permittee retains all rights specified in the permit until otherwise notified by the department, and the locatable minerals in the land described in the conversion application remain segregated from filing under other offshore prospecting permit applications or as mining locations. There is no further rental obligation after the original expiration date. A decision denying conversion to lease will be accompanied by a written explanation of the grounds or rationale on which the denial is based.

(c) The director will determine if a workable deposit is present based upon, but not limited to, the following information that must be submitted by

To convert OPP to lease, need to show workable mineral deposit. (c) defines, cause is confusion over what it is.

the permittee:

(1) an estimate of reserves, including whether these are measured, indicated, or inferred; sufficient geologic, geophysical and engineering data must be presented to substantiate the reserve estimates;

(2) the average grade of those reserves, including a discussion of the sample density, sample collection technique, sample preparation, and analytical testing methods used to determine the average grade of the deposit; the grade of a deposit is only that value that can be recovered during milling or concentrating the host rock;

(3) topographic, geologic, or ocean floor maps that clearly show the location of all samples, trenches, drill holes, and geophysical surveys, and the outline of the ore body;

(4) a description of the probable mining and recovery methods;

(5) an economic appraisal of the proposed mining operation that estimates both revenue from the sale of the ore; and the costs of mine development and of extracting, milling, transporting, and marketing the ore;

(6) an evaluation of toxic materials that naturally occur in the proposed mining area and proposed methods to control the release of those materials;

(7) any additional documentation as required by the director to assist in evaluating the conversion of a prospecting permit to a lease.

(e) In this section, "workable deposit" means a mineral deposit that has been shown by the applicant to have a reasonable prospect of developing into a successful mine under present conditions, based on the presence of minerals of sufficient value and quantity to induce a prudent operator to pursue development. (Eff. 9/5/74, Register 51; am 1/1/83, Register 85; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.250

11 AAC 86 is amended by adding a new section to read:

11 AAC 86.532. LEASE DURATION. An offshore lease is issued for a term of 10 years, subject to extension as provided in AS 38.05.250. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.250

11 AAC 86.535 is amended to read:

11 AAC 86.535. SURVEY AND MONUMENTATION REQUIRED. The provisions of 11 AAC 82.640 [11 AAC 82.645] -- 11 AAC 82.650 apply to the survey requirements under 11 AAC 86.500 -- 11 AAC 86.570. (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.250

11 AAC 86.540 is amended to read:

11 AAC 86.540. LEASE RENTAL. Rental for mining leasing on tide and submerged land is \$3 per acre per year. Expenditures on or for the benefit of the leasehold are creditable against the rental. Work done in excess of minimum requirements in one year may be credited during the following two years. Expenditures to be credited must be supported by an affidavit. Rental must be paid or the affidavit must be filed in duplicate for the immediately preceding year with the division within 90 days after each anniversary date of the lease. Failure to pay rent or to file the required affidavit terminates the lease. Remittances are payable to the Department of Revenue of the State of Alaska. (Eff. 9/5/74, Register 51; am 1/1/83, Register 85; am / / , Register)

Authority: AS 38.05.020(b)(1)
AS 38.05.250
AS 38.05.265

11 AAC 86.545 is amended to read:

11 AAC 86.545. LEASES GRANTED BY COMPETITIVE BIDDING. The commissioner in his or her discretion, upon the request of any qualified applicant or on his or her own motion, will [MAY] offer tide and submerged lands containing known deposits of locatable minerals for lease by competitive bidding. Known mineral deposits are those determined by the division of geological and geophysical survey, after reviewing public information, to exist in sufficient quantity and quality to induce further exploration or development. Land may be offered for lease under the competitive bidding procedures of 11 AAC 82.400 -- 11 AAC 82.475 [11 AAC 82.480]. (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.145(a)
AS 38.05.250(b)

11 AAC 86.550 is repealed.

11 AAC 86.550. BOND. Repealed / / .

11 AAC 86.555 is repealed.

11 AAC 86.555. TERMINATION. Repealed / / .

11 AAC 86.560 is repealed.

11 AAC 86.560. RELINQUISHMENT. Repealed / / .

11 AAC 86.570 is repealed.

11 AAC 86.570. TRANSFERS. Repealed / / .

11 AAC 86 is amended by adding a new section to read:

11 AAC 86.575. PRODUCTION AND LEASE EXTENSION. (a) To qualify for extension of an offshore lease,

(1) production must be achieved by the end of the primary term, or

(2) the lessee must show that the lease is reasonably close to attaining production and that, despite diligent, good-faith efforts, the lessee has been unable to produce due to force majeure, depressed market conditions, or other situations beyond the lessee's reasonable control. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.205
AS 38.05.250

11 AAC 86.580. SUSPENSION. (a) After detailed exploration of the lease has been completed, the director may, to encourage the greatest ultimate recovery of minerals and in the interest of conservation, approve the lessee's application for a suspension of operations and production based on the lessee's showing that the suspension is necessary to promote development of the lease; that the lease cannot be successfully operated under its terms; or that force majeure, depressed market conditions, or other situations beyond the reasonable control of the lessee make the lease uneconomic to operate.

(b) The lessee's application for a suspension must comply with 11 AAC 88.105 and must contain complete information showing the necessity or justification for the suspension.

(c) No ... expires because production or operations leading to production are ... by order of or with the assent of the director. When a suspension is removed, the lessee will have a reasonable time, which will not be less than six months, to resume operations or production. The obligation to pay rental continues during the suspension. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.250

ARTICLE 7. MINING PRODUCTION LICENSES.

Section

700. Applications for production licenses

705. Application review [FOR COMPLIANCE]

710. Public notice

715. Review after public notice

735. Interim mining

740. Transfer of a production license

11 AAC 86.700--11 AAC 86.715 are amended to read:

11 AAC 86.700. APPLICATIONS FOR PRODUCTION LICENSES.

(c) An application must be made under oath by an owner of the mining claim, mining leasehold location, or mining lease and must contain

(5) a statement of the date that the applicant either began or expects to begin [HAS PRODUCED MINERALS FOR SALE FROM THAT PROPERTY BEFORE JANUARY 1, 1983, OR ANTICIPATES] production of minerals for sale from that property [ON OR AFTER A DATE TO BE FILLED IN BY THE APPLICANT]; and

(Eff. 5/12/83, Register 86; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.207

11 AAC 86.705. APPLICATION REVIEW [FOR COMPLIANCE].

(c) If the commissioner discovers that location certificates and annual labor affidavits for mining claims or mining leasehold locations have not been properly filed or the terms of a state mining lease have not been complied with, processing of the application will be suspended until either the commissioner is satisfied that compliance has been achieved or the commissioner determines under AS 38.05.185(b) that the applicant has complied as nearly as possible under the circumstances of the case. The commissioner will notify the applicant of any noncompliance which causes the suspension of processing of the application. If compliance is not achieved or the commissioner is not satisfied that the applicant complied as nearly as possible under the circumstances of the case, the application will be rejected and the case will be closed.

(d) If the commissioner discovers that the location is on land selected by the state for which the state has not received tentative approval, or is on other land to which the State of Alaska does not hold title, the application will be rejected. The commissioner will notify the applicant of the rejection of the application. (Eff. 5/12/83, Register 86; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.207

11 AAC 86.710. PUBLIC NOTICE.

(c) If possible the commissioner will notify [ALSO SEND A COPY OF THE NOTICE] by certified mail [TO] the holders of any apparent conflicting rights as indicated on the state status plats available to the division [OF MINERALS AND ENERGY MANAGEMENT] at the time of the review for compliance of the application. The commissioner will send the notice to the address of record of the holder of the apparent conflicting rights in the files of the division [OF MINERALS AND ENERGY MANAGEMENT]. If the notice is returned by the mail service, the commissioner will have no further obligation to notify the third party, except by the public notice requirements set out in (a) of this section. (Eff. 5/12/83, Register 86; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.207

11 AAC 86.715. REVIEW AFTER PUBLIC NOTICE.

(b) If the commissioner receives an assertion of conflicting rights, the commissioner will send to the applicant a copy of the assertion within 10 days after receiving it and will send, within 30 days after receiving the

assertion, copies of the notice of his or her determination, under 11 AAC 86.720, whether or not to adjudicate the matter to the applicant and the party or parties asserting conflicting rights. (Eff. 5/12/83, Register 86; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.207

11 AAC 86.735--11 AAC 86.740 are amended to read:

11 AAC 86.735. INTERIM MINING. After filing an application, and pending completion of the public notice requirement and the issuance of the production license, the applicant may, at his or her own risk, produce minerals for sale from the property unless either that application is rejected under 11 AAC 86.700(d) or the applicant is notified that processing of his or her production license has been suspended or rejected under 11 AAC 86.705[d] or 11 AAC 86.730(b). (Eff. 5/12/83, Register 86; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.207

11 AAC 86.740. TRANSFER OF A PRODUCTION LICENSE. (a) A mining production license passes with a conveyance of the mining claim, mining leasehold location, or mining lease which is the subject of the production license.

(b) In the case where some but not all of the multiple mining claims, mining leasehold locations, or mining leases covered by a multiple production license are transferred and the portion of the multiple production license which covers the transferred claims, leasehold locations, or leases is to be transferred with them, the original production license will be amended to include only those claims which have been retained by the original holder of the multiple production license while a second amended production license covering the transferred claims, leasehold locations, or leases will be issued to the transfer[R]ee of those claims, leasehold locations, or leases. (Eff. 5/12/83, Register 86; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.207

11 AAC 86 is amended by adding a new article to read:

ARTICLE 8. GENERAL PROSPECTING PERMIT AND LEASE PROVISIONS.

Section

- 800. Plan of operations
- 805. Bond
- 810. Suspension and termination
- 815. Relinquishment
- 820. Transfers

*Now to mine, need from D.I.P.
"miscellaneous" land use permit
requires annual approval*

*If in coastal zone,
10 yr plan would
have to fit w/ur
10 yr system*

*new
plan approved*

11 AAC 86.800. PLAN OF OPERATIONS. (a) A plan of operations that describes the activities proposed to take place under a lease or prospecting permit must be submitted for the director's approval. An approved plan of operations takes the place of the "land use permit" or "miscellaneous land use permit" that would be required under this title for unleased land. (If proposed lease or permit activities are so minor that they could take place without a land use permit on unleased land, a plan of operations is not required.)

(b) The plan must show how the operator proposes to comply with performance standards, stipulations, or conditions applicable to the prospecting permit or lease. The proposed plan of operations must address the areas to be mined, location and design of settling ponds, tailings disposal, overburden storage, permanent or temporary diversions of water, access routes, reclamation plans, and other actions necessary to conduct the operation. The plan must include statements and maps or drawings setting out the following:

- (1) the sequence, schedule, and duration of the proposed operations;
- (2) size and purpose of the operations;
- (3) number of pieces of equipment and people working on the project;
- (4) amount of material to be handled, processed, or removed, and how the material will be processed;
- (5) how the tailings will be disposed of;
- (6) amount of timber to be cleared or used;
- (7) overland access routes to be used, and whether new roads, landing strips, or other new transportation facilities will be needed;
- (8) reclamation that will be carried out, including a timetable for each step in the reclamation, an estimate of the cost, and a description of the measures to ensure that all debris is disposed of in a sound manner;

(9) the actions to be taken to minimize detrimental effects on fish and wildlife;

(10) amount of water to be used;

(11) location and size of camp facilities;

(12) any site the operator wants the division to close to public access, in order to protect public safety; and

(13) how the operator's plans for compliance with other applicable laws and regulations (including size and location of required facilities or improvements) will affect resources under the jurisdiction of the department; and

(14) any additional information required by the director to assist in evaluating the proposed plan of operations.

(c) Any geological, geophysical, or engineering data supplied by the applicant as part of the plan of operations will be kept confidential at the applicant's request. Such data must be clearly identified by the applicant and separated from information not qualifying as confidential.

(d) The plan of operations may cover up to a ten-year period. An amendment must be filed and approved whenever the operator wants to deviate significantly from the approved plan. If the time period the operator chooses to cover in the plan is less than the intended life of the mine, the plan must show how the proposed operations relate to subsequent operations.

(e) The plan must be submitted to the division at least 50 days before operations under the prospecting permit or lease are proposed to begin. Before operations may begin, the plan must be approved in writing by the division after consulting with the Department of Fish and Game, Department of Environmental Conservation, and other affected agencies.

(f) For the operator's convenience, the proposed plan may include information needed to apply for approvals from other departments or local and federal agencies under other applicable laws and regulations, such as effects of the operation on air and water quality, disposal of toxic wastes, effects on navigation, effects on anadromous fish habitat, etc. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.205
AS 38.05.250

11 AAC 86.805. BOND. (a) 11 AAC 82.600 applies to offshore prospecting permits, offshore mining leases, and upland mining leases. If a bond is required, the applicant, permittee, or lessee will be given notice of the requirement and its effective date. At least 30 days will be allowed to file the bond.

(b) The director may, in the event of any significant change in the scope of operations or before approving an assignment, alter the amount of the bond.

(c) A bond filed under this section will be released upon the following conditions:

(1) the expiration or relinquishment of the lease or prospecting permit; and

(2) the reclamation of the lease area or prospecting permit area as set out and approved in the plan of operations. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.130
AS 38.05.205
AS 38.05.250

11 AAC 86.810. SUSPENSION AND TERMINATION. If the permittee or lessee fails to comply with applicable statutes and regulations, or to comply with the provisions of the prospecting permit or lease (except for failure to pay rental, which results in termination under AS 38.05.205), and the failure continues for 60 days after service of written notice and an opportunity to be heard, the director will, in his or her discretion,

(1) suspend production or operations leading to production until compliance is achieved, during which the obligation to pay rental continues, or

(2) terminate the permit or lease. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.185(b)
AS 38.05.205
AS 38.05.250
AS 38.05.265

Register , 1984

NATURAL RESOURCES

11 AAC 86.815

11 AAC 86.820

11 AAC 86.815. RELINQUISHMENT. The provisions of 11 AAC 82.635 apply to the relinquishment or surrender of offshore prospecting permits, offshore mining leases, and upland mining leases. (Eff. / / , Register)

Authority: AS 38.05.020

AS 38.05.205

AS 38.05.250

11 AAC 86.820. TRANSFERS. After an offshore prospecting permit, offshore mining lease or upland mining lease is issued, it may be transferred in accordance with the provisions of 11 AAC 82.605 -- 11 AAC 82.630. (Eff. / / , Register)

Authority: AS 38.05.020(b)(1)

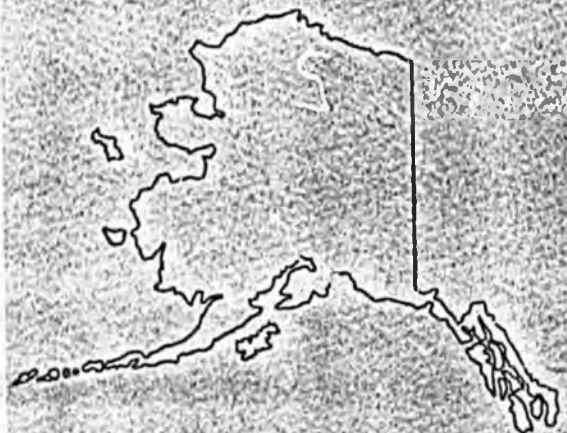
AS 38.05.270

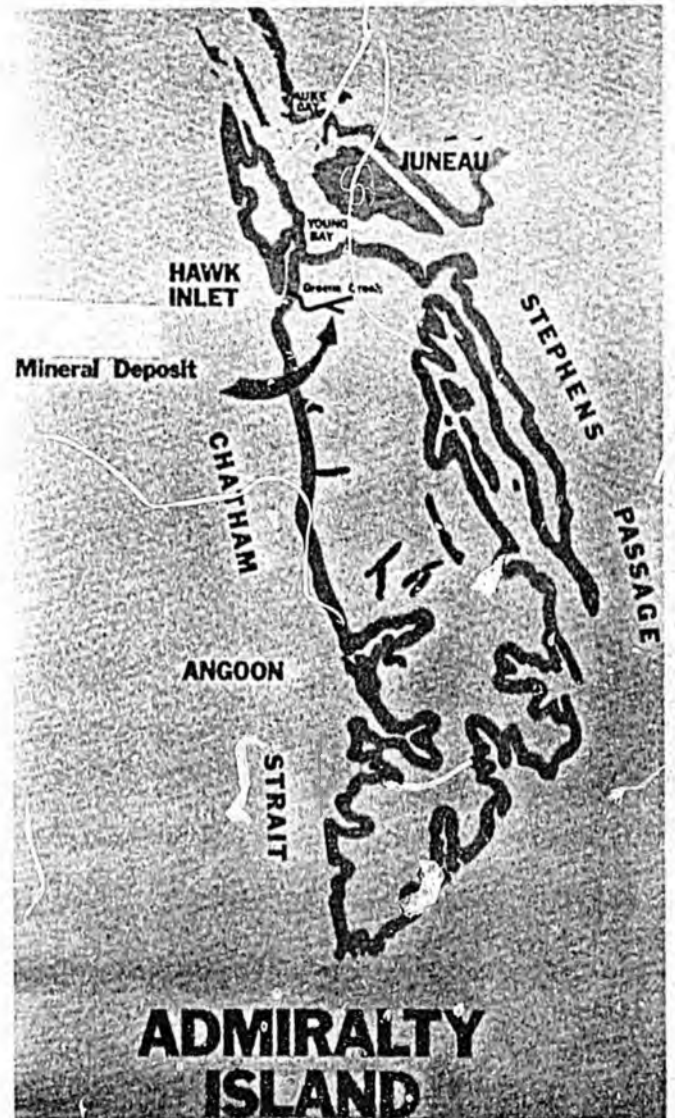
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NORANDA -
GREEN'S
CREEK
BRIEFING

GREENS
CREEK
JOINT
VENTURE

Greens Creek Project
1982 Update





Admiralty Island Vicinity

THE GREENS CREEK PROJECT

INTRODUCTION

Welcome to Greens Creek! The purpose of this pamphlet is to provide you with some information about the Greens Creek Project, where it is, what it consists of, its history to date, why it is of special importance, and plans for the future.

We invite you to contact us should you desire more information about the Greens Creek Project.

Our address is:

Mine Manager
Noranda Mining Inc.
Post Office Box 1268
Juneau, Alaska 99802
Telephone: (907) 789-4171

A small but richly mineralized area on Admiralty Island in Southeast Alaska, eleven square miles, about $\frac{1}{2}$ of 1% of the island's total area.

Economically mineable ore deposit of silver, zinc, gold, lead and copper which are now heavily imported by the United States.

Recoverable by underground mining methods with only minimal and temporary disruption to surface vegetation and wildlife. Reclamation of the area following the termination of mineral production.

Accessible by boat, 6 miles from tidewater, 18 air miles from Juneau.



Exploration Base Camp

A CLOSER LOOK AT GREENS CREEK

The Greens Creek claims are located about 18 air miles southwest of Juneau, within Admiralty Island National Monument but outside the area designated as Wilderness by the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). Parts of this Act provide for the careful development of valid mining claims in the Greens Creek area.

The joint venture which discovered the deposit was formed in early 1973 by Noranda Exploration, Marietta Resources International, Exalas Resources Corporation and Texas Gas Exploration. It's success led to the formation in 1978 of the Greens Creek Joint Venture for the continued development of the project. Its participants are the four companies plus Bristol Bay Native Corporation, which owns land on Hawk Inlet near the mouth of Greens Creek. The Joint Venture Group is very much aware of their responsibilities, and they recognize the many special values that contribute to this National Monument.

To date the Joint Venture has invested more than \$9 million for claimstaking, metallurgical test work, geophysical surveying, excavation of a 4,200-foot adit, 48,000 feet of diamond core drilling, and environmental studies.

Field activities during 1981 included seismic surveys, shallow diamond drilling to further evaluate proposed tailing disposal sites, and the excavation of a cross-cut tunnel from the existing adit to the mineral horizon. Ore samples were obtained and sent to a laboratory for detailed metallurgical testing.

So far, all exploration and pre-development activity at Greens Creek has been helicopter supported with nearly 4,100 flying hours accrued through 1981. Minor surface disturbance has been limited to the preparation of drill sites and the clearing of a campsite and waste rock disposal area.

Noranda, the Forest Service, other agencies and interest groups are going through the planning phases and public participation that shape the management of activities on Admiralty Island. Noranda is in the process of developing environmental, engineering, and socio-economic background data to be supplied to the U. S. Forest Service for the preparation by that agency of an Environmental Impact Statement (EIS) by mid-1982.

NORANDA'S PREFERRED ALTERNATIVE

Various alternatives will be addressed in the Environmental Impact Statement relating to the proposed mine/mill operations.

Of these options, Noranda's preferred alternative will be to house personnel in Juneau. Transportation would be by boat on a daily basis to Young Bay, followed by busing to the cannery at Hawk Inlet and on up to the mine/mill site.

A portion of the waste rock produced from the milling process will be stored on the island with treated waste water discharged to a marine environment.



Delivering Campsite

DEPOSIT OF BASE AND PRECIOUS METALS

An area where the mineralized zone is exposed at the surface is called the "Big Sore" because of the reddish-stained natural ground seepage where little vegetation grows. Initial surface drilling at Big Sore indicated several horizons containing pods of variable grade silver, zinc, lead, copper, and gold ore. Continued drilling has now delineated a narrow, steeply dipping ore zone with a minimum horizontal length of 3,500 feet.

Diamond drill core intercepts have indicated geologic reserves above the 1,100-foot elevation estimated at 3 million tons containing:

- copper at 1/4%
- lead at 2 1/2%
- zinc at 7-10%
- silver at 10+ ounces per ton
- gold at 1/10 ounce per ton

Additional exploration, along the vertical and horizontal extent of the orebody could add several million tons to the indicated reserves.

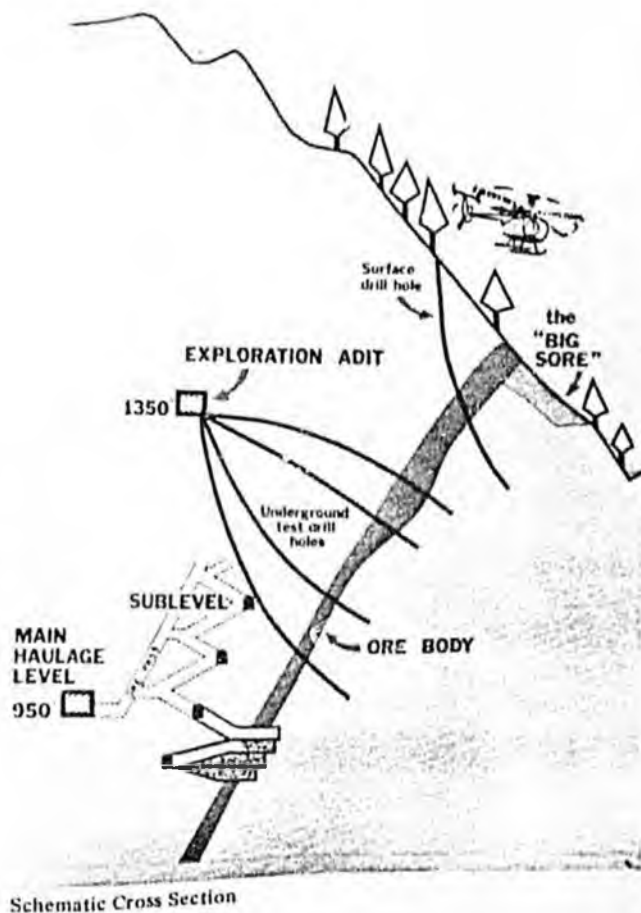
During 1981 Noranda Exploration's management role was transferred to Noranda Mining Inc. as the project moves through conceptual engineering towards actual mining.



"Big Sore"

UNDERGROUND MINING OF THE OREBODY

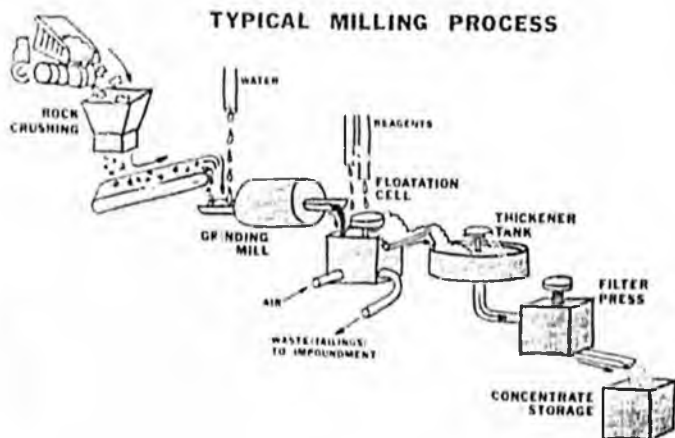
The steeply-dipping, narrow zone requires an underground mining method for ore extraction. The present exploration adit will continue to provide access at the 1,350-foot elevation, while the main haulage will be driven at the 950-foot level and connected to the ore zone by a series of ramps and drifts. The mining process is known as cut and fill. Ore is removed, the waste rock, some tailings, and cement replace the volume of mined-out ore. Production will be about 800 tons per day. The ore will be removed using rubber-tired, load-haul-dump diesel equipment.



ORE MILLING PROCESS

Generally, the physical and chemical makeup of the ore determines the treatment method. A selective flotation process will be used to produce two concentrates: lead and zinc. Three steps are involved: size reduction, mineral concentration, and concentrate drying. Successive crushing steps will produce $\frac{1}{2}$ inch material which goes to a grinding mill for further size reduction. The slurry product is piped to flotation cells or tanks where the valuable minerals are separated from waste materials. The addition of air and reagents to the flotation cells selectively separates the sulfides.

Filtering removes most of the water content and the resulting concentrates are ready for shipment to a smelter location outside Alaska.



OPPORTUNITY FOR A MODEL MINING PROJECT

The opportunity exists at Greens Creek to create a model underground mine with associated facilities which can satisfy the practical need to recover valuable minerals and in so doing support:

- *the economy of the area*
- *its people*
- *the State of Alaska*
- *and the nation*

without disrupting the natural beauty of the Alaskan frontier or its ecology.

EXPERIENCED AND RESPONSIBLE DEVELOPMENT

The Joint Venture companies are seasoned, responsible organizations that have spent virtually their corporate lifetimes in extractive industries - - both in the United States and worldwide. The companies are familiar with environmental regulations, including revegetation of mine tailings and the control and discharge of waste waters. Their geologists, engineers, and field technicians working on the Greens Creek claims have many years of experience in the field.

EXISTING FACILITY FOR STAGING AREA

Supply and support from Juneau, with staging at the existing abandoned cannery at Hawk Inlet, are two important factors which have contributed to sound environmental planning for Greens Creek. The site at Hawk Inlet will continue as the staging area for exploration and development of the mine.



Hughes 500

ECONOMIC STIMULUS FOR JUNEAU AREA

Present planning and permitting at Greens Creek includes the preparation of an Environmental Impact Statement (EIS). If a mine is to go into production at Greens Creek, another two years of development, design, and construction work will be required before the first ton of ore is produced. There will be a continuing need for about 300 employees. This activity and the financial stimulus to the Juneau area will continue for a minimum of 15 years, as now planned.

Most of the money to be expended in development of Greens Creek will benefit the Juneau area directly. Due to its proximity, Juneau could be the primary site for residence of workers and staff and the supply base for air and water transport.

The Greens Creek project can proceed and at the same time:

- ▶ *Preserve scenic, geologic, and wildlife values associated with natural landscapes. Provide careful attention to reclamation following mineral extraction.*
- ▶ *Perpetuate in their natural state significant and diverse ecosystems.*
- ▶ *Protect and preserve cultural values of Native and non-Native peoples and conserve renewable resources related to their subsistence needs.*

Proper development of Greens Creek's mineral resources is not incompatible with any of the desirable objectives of the well-balanced land management policy of the Admiralty Island National Monument.



Preparing Campsite

ECONOMIC PLANNING AND RECLAMATION

The Greens Creek Project is regulated by State and Federal laws and guidelines for the adequate protection of the natural, human and economic environments. The long and complex permitting process, complete with public involvement, provides a complete checklist for addressing various values important to all of us. The EIS, already mentioned, is part of this process.

When the mining phase of the Project is terminated, the important job of reclamation will be implemented. Mine portals will be sealed. Revegetation of the tailings impoundment site and the returning of disturbed areas to their natural state, where feasible, will be accomplished. Certain monitoring activities will continue to assure compliance with permits and other obligations.



Hoisting Equipment

GREENS CREEK AND NATIONAL LEGISLATION

The Alaska Native Claims Settlement Act contains a provision "d-2" which provides for selection of National Interest Lands. The Congress of the United States enacted the Alaska National Interest Lands Conservation Act (ANILCA), which was signed into law by the President on December 2, 1980.

Various sections of ANILCA spell out the policy on valid and unperfected mining claims in the Admiralty Island National Monument. Opportunities for access, exploration, and development are discussed in detail.

The purpose of this brochure was to afford the public a brief insight to the Greens Creek Joint Venture Project. It is hoped that some of your questions have been answered. As stated previously, we welcome your comments and inquiries regarding this proposed mining activity on Admiralty Island.



Underground Mining Equipment

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March 8, 1983

Mr. Patrick Pourchot
Administrative Assistant
Senate Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Greens Creek


Dear Pat:

This is to confirm that Mr. Peter Richardson, Manager, Noranda Mining Company, will make a presentation on Wednesday, March 9, 1983 at 3:15 p.m. to the Senate Committee on Natural Resources on the subject of the underground mine which Noranda Mining Company is about to develop at Greens Creek on Admiralty Island.

Mr. Richardson expects to show some slides during the course of his presentation. I would appreciate your assistance in ensuring a suitable screen is available at the hearing room if possible.

Transmitted with this letter is a small brochure describing the project which you may wish to provide to members of the committee.

Sincerely,


J. P. Tangen

Greens Creek

Admiralty Island
National Monument,
Alaska

Proposed
Noranda Mining, Inc.
Project

PROJECT HISTORY

In early 1973, the Pan Sound Joint Venture was formed to conduct a base metal exploration program in Southeast Alaska. The companies originally involved were Marietta Resources International, Exalas Resources Corporation, Texas Gas Exploration, and Noranda Exploration. From 1974 through 1976, geological studies concentrated on areas where stream sediment sampling indicated high base metal anomalies on Admiralty Island. Claims were staked, and detailed exploration, including surface drilling, began in the Greens Creek area. Lode claims (approximately 21 acres each) were staked in two large blocks: The Tom claims (122 claims) and the Big Sore claims (318 claims). Of these claims, seven have been determined to be valid at this time. Additional claims may be declared valid in the future. In addition, a total of 138 millsite claims of 5 acres each were filed in 1978 on possible mine-related surface activity sites. Figure 1-2 illustrates claim locations.

In 1976, Noranda Exploration assumed responsibility as operator for the field operations phase of the project and managed all initial work at Greens Creek. In early 1978, the Greens Creek claims were put into a development category and the Pan Sound Joint Venture was dissolved. Its legal successor, the Greens Creek Joint Venture, which included the four original companies plus Bristol Bay Resources, Inc., was formed to develop the property.







During 1978, extensive underground diamond drilling and environmental baseline studies were begun. To date, the entirely helicopter-supported exploration program has completed a 4,224-foot adit, which has provided the means for delineating the orebody. Additional access to the orebody has been gained by means of a 600-foot cross-cut from the existing adit into the ore zone.

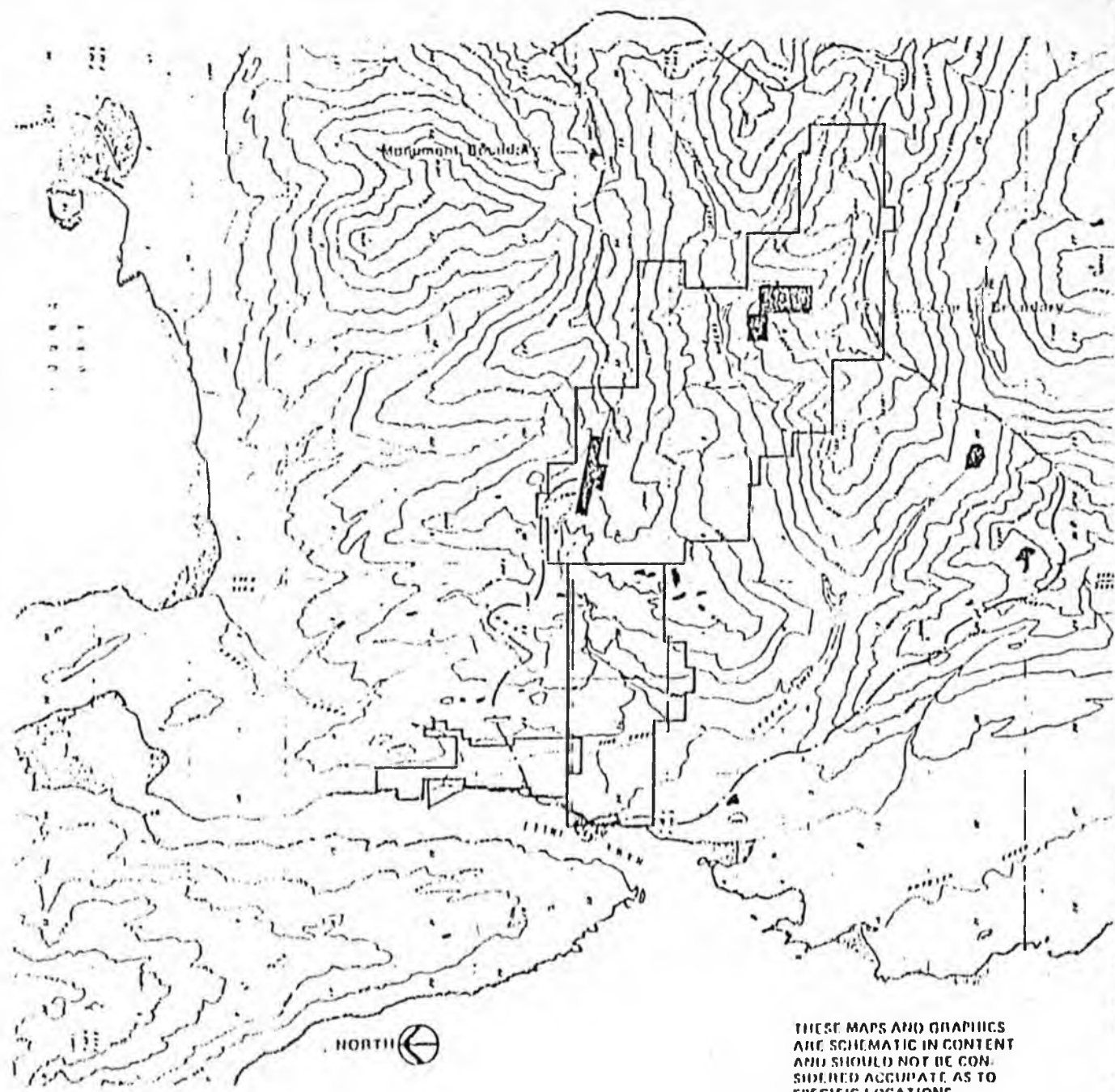
On November 16, 1979, the Forest Service filed a Notice of Intent to prepare an EIS on the proposed Greens Creek Project. Public meetings were held in Juneau and Angoon to determine issues and concerns associated with the project. In February 1980, the agency released a scoping document that described the issues identified at those meetings. The February document was characterized as draft and the comment period was left open, to encourage public input.

On November 20, 1980, the Forest Service determined that Noranda had valid mineral discoveries on seven lode mining claims in the Greens Creek watershed.

In January of 1981, Noranda Mining, Inc. assumed control as operator of the Greens Creek Project. Noranda Mining acts as the manager and representative for the Greens Creek Joint Venture. All permitting activities and the ultimate responsibility for operation of the Greens Creek Project will be held by Noranda Mining, Inc.

GREENS CREEK PROJECT EIS

-  BIG SORE LODGE CLAIMS (UNPERFECTED)
-  BIG SORE MILL SITE CLAIMS (UNPERFECTED)
-  TOM LODGE CLAIMS (UNPERFECTED)
-  BIG SORE LODGE CLAIMS (INVALID)
-  EXISTING PATENTED LAND IN GREENS CREEK.
-  PRIVATE LAND AT THE CANNERY, INCLUDING TIDELANDS.



THESE MAPS AND GRAPHICS ARE SCHEMATIC IN CONTENT AND SHOULD NOT BE CONSIDERED ACCURATE AS TO SPECIFIC LOCATIONS.

Land Tenure

Figure 1-2

1-5

NORTH
ANCHORAGE
LAND
AGREEMENT



Alaska State Legislature

Senate

Resources Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Senator Bettye Fahrenkamp
chairman

January 24, 1983
1:40 p.m.

House Resource Committee Room 118

With the House Resources Committee

MEMBERS PRESENT

SENATE

Senator Fahrenkamp
Senator Sturgulewski
Senator Ziegler
Senator Paul Fischer

HOUSE

Rep. Ringstad ✓
Rep. Liska
Rep. Larson
Rep. Uehling
Rep. Vaska
Rep. Cowdery
Rep. Bussell
Rep. Shultz

Briefing on North Anchorage Land Agreement

Commissioner Wunnicke provided background information on the North Anchorage Land Agreement and introduced Al Meiners, Division of Parks, DNR; Barbara Miracle from Attorney General's office and Chip Dennerlein, Executive Manager of Public Services, Municipality of Anchorage.

Al Meiners summarized the Agreement stating that the agreement resolves in a comprehensive manner, a variety of longstanding land disputes including federal military lands, Chugach State Park and Palmer Hayflats State Game Refuge. The agreement provides for regional transportation needs and resolves several lawsuits which have clouded property title in the north Anchorage area. He added that the State, the Municipality of Anchorage and Eklutna, Inc. have all signed the agreement.

In response to a question by Senator Sturgulewski, Barbara Miracle stated that the Agreement settles the lawsuit involving mental health lands between Eklutna and the federal government although the State Mental Health Board could still pursue a suit involving the mental health lands.

Senator Fahrenkamp raised several questions dealing with legislative approval of the Agreement, the impact of the Agreement on the recent Congressional legislation on the railroad transfer, the possible conflicts with subsurface rights on Cook Inlet Regional corporation and state participation in the Alaska Land Bank. It was stated that the Agreement did not require submission to the Legislature under AS 38.50, that the Agreement conformed to the provisions of the Railroad legislation, that the conflicts were being worked out with Cook Inlet and that DNR would look further into

the possibility of the State directly participating in the Land Bank provisions of ANILCA.

In response to a question by Rep. Liska, it was stated that the Fort Richardson cemetery would be retained in federal ownership and expansion permitted under the Agreement. In response to a question by Rep. Cowdery it was stated that no state gravel leases or lands were involved in the agreement.

Jerry Wertzbauger and Chip Dennerlein voiced support of the Agreement.

The meeting was adjourned at 2:25 p.m.

EKLUTNA LAND AGREEMENT

Met with Division of Parks personnel. The agreement has been signed by all parties to the settlement. The agreement needs legislative approval by July 1, 1983. Division of Parks personnel will be meeting with Committee staff early in 1983 to go over their plan of action before the Legislature. This is considered pending, awaiting an Anchorage legislator to sponsor the bill.

5
6 For an Act entitled: "An Act relating to the Section 1425 Agreement; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. PURPOSE: The purpose of this Act is to provide for the
0 settlement of certain claims and litigation, and in so doing to consolidate
1 ownership among the United States, the State of Alaska, the Municipality of
2 Anchorage, Eklutna, Incorporated, the Cook Inlet Region, Incorporated,
3 thereby facilitating land management, a fair implementation of the Alaska
4 Native Claims Settlement Act, the protection of State public park lands and
5 resources, and appropriate development patterns in and about Anchorage,
6 Alaska. The legislature finds the Section 1425 agreement is a matter of
7 statewide significance, is in the general public interest, and will
8 accomplish the purposes set out and will both settle existing litigation
9 and foreclose possible protracted and devisive litigation.

10 * Section 2. APPROVAL OF AGREEMENT. The Commissioner of the Department
11 of Natural Resources is authorized to notify the Secretary of the Interior
12 that the Legislature has approved the Agreement between the State of
13 Alaska, the Municipality of Anchorage and Eklutna, Inc. pursuant to the
14 provisions of Section 1425 of the Alaska National Interest Lands
15 Conservation Act, 94 Stat. 2371, *which has been*

16 ~~is~~ approved by the Commissioner of the Department
17 of Natural Resources,

18 * Section 3. EXISTING LAW. The provisions of AS 38.50 do not apply to
19 the settlement of litigation effected by Sections II and III of the

20 Agreement. The Governor is authorized to convey land to the Municipality
21 pursuant to the terms of the Agreement without regard to the provisions of
22 AS 29.18.201, et seq.

23 * Section 4. This Act takes effect immediately in accordance with AS
24 01.10.070(c).

4/7/82 ✓

Deliver to:

Sharon Barton

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE:

4/4/82

April 2, 1982

The Honorable Jaimar Kerttula
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

I am pleased to submit for your review a summary of the North Anchorage Land Agreement. It is my belief that final approval of this agreement would accrue to the State's best interest.

Under the Agreement, the State has chosen to exercise the unique opportunity provided in Section 1425 of the Alaska National Interest Lands Claims Act to settle land ownership conflicts between the State, Eklutna, Inc. and the Municipality of Anchorage, and to bind the federal government to such a settlement. In addition, two pieces of litigation are settled between Eklutna and the federal government affecting significant acreages in the North Anchorage area. The State is not a party to either lawsuit but could be adversely affected by a decision in Eklutna's favor. Concensus is also reached on the disposition of certain military lands in the event any portion of those lands is ever exceeded by the federal government. In the process, 27,000 acres of Native selected lands within Chugach State Park are returned to public use.

The Agreement was negotiated on behalf of the State by Chip Dennerlein of the Department of Natural Resources and has been analyzed and approved by all divisions of the Department

The Honorable Jalmer Kerttula
Page Two
April 2, 1982

of Natural Resources, this office, the Department of Law,
other affected State agencies, and the Governor.

The document has now been signed by the Mayor of the Municipality
of Anchorage with the approval of the municipal attorney and
property management staff and by the President of Eklutna.
The North Anchorage Land Agreement is not a land exchange
under the provisions of AS 38.50 requiring Legislative
approval. However, because of the considerable resource
values involved, the Agreement was signed by DNR subject to
the approval of the Legislature, and it is now submitted for
that purposes.

If you have any questions or comments concerning the enclosed
material, please let me know.

Sincerely,


John W. Katz
Commissioner

cc: The Honorable Jay S. Hammond, Governor
The Honorable Brad Bradley
The Honorable Mike Colletta
The Honorable M. Ed Dankworth
The Honorable Vic Fischer
The Honorable Tim Kelly
The Honorable Patrick Rodey
The Honorable Terry Stimson

NORTH ANCHORAGE LAND AGREEMENT

1. Who (are the parties to the Agreement?) State of Alaska, Municipality of Anchorage, Eklutna, Inc.

Signatories are: Mayor Knowles of Anchorage
President Dan Alex of Eklutna, Inc.
Chip Dennerlein (subject to approval by Commissioner Katz and the Legislature)

2. What (does the Agreement do?)

The Agreement settles two pieces of litigation between Eklutna and the federal government which affect the ownership of a significant amount of land in North Anchorage. The Agreement establishes the interests of each of the parties in certain military lands if and when those lands are ever surplus. The Agreement restores public use of all 27,000 acres of Native selected lands within Chugach State Park, provides a municipal "check and balance" on future development in North Anchorage, fulfills certain of Eklutna's claims and rights under ANCSA, protects regional transportation needs (ie. Knik Crossing, railroad transfer). The authority for the Agreement was provided by Congress in Sec. 1425 of ANILCA.

3. When (does the Agreement become effective?)

The Agreement was signed by all parties and submitted to the Secretary of the Interior by the congressional deadline of March 15, 1982. Two conditions must be fulfilled before the Agreement is effective: approval by the Commissioner of DNR and approval by the Legislature. (Administration approval on March 25, 1982. Legislature must approve by July 1, 1983.)

4. Where (does the Agreement affect land, now and in the future?)

North Anchorage, from a line on Ft. Richardson (just north of Artillery Rd.) to the Knik River; all valleys in the northern one-half of Chugach State Park; Palmer Hay Flats State Game Refuge; coastal and highway adjacent lands; in the

Eklutna area, lands along lower Eagle River; 41,000 acres of Ft. Richardson; and one township North of Knik River in Mat-Su (T17N, R3E)

5. Why (do the parties wish to execute the Agreement?)

The Agreement is considered by all parties to be the best (perhaps only) opportunity to settle a variety of longstanding land ownership disputes and conflicts in one comprehensive action. Risks in litigating cases are too great for either the State or Eklutna. The opportunity to have the federal government (through a rewriting of surplus property law regarding portions of Ft. Richardson) contribute to the solution. The Agreement will fulfill congressional intent of Sec. 1425 of ANILCA by providing a mechanism for the municipality to obtain adequate community service and expansion lands and by enabling the State to restore legislatively designated park and refuge lands and protect other key regional public interests (ie. gravel resources, transportation corridors, etc.).

MILITARY LANDS AGREEMENT*

STATE

1. Receives submerged lands beneath navigable waters.
2. Receives approximately 2,500 acres at Eagle River Flats as "public interest land."
3. Receives Approximately 500 ft. corridor along Eagle River within military reserve of approx. 270 acres as "public interest land."
4. Receives approx. 3,840 acres of moose habitat within military withdrawal as "public interest land."
5. Receives approx. 7,280 acres of Goose Bay military withdrawal.
6. Receives title to 200 ft. Alaska Railroad corridor pursuant to any railroad transfer bill.
7. Receives Clunie or Six-Mile Lake & adjacent 160 acres for regional float-plane base.
8. Receives 1,000 acres for bulk transportation purposes.
9. Receives rights-of-way for the Knik Arm crossing & three alternative approach avenues and any other rights-of-way for transport requested by the military.
10. Receives title to 80 acre campground near Eklutna Glacier.
11. Receives title to lands within the Peters Creek power site classification 107 acres approx.

MUNICIPALITY

1. Receives 3,000 acres of "community service lands" (for public buildings, local parks, etc.).
2. Receives 50 percent of "military base lands" to be reconveyed from State up to approx. 15,900 acres (likely 6,000-8000 acres).
3. Receives rights-of-ways for trails, roads, utilities, etc.
4. Will participate with Eklutna in development of a generalized land management plan.

EKLUTNA

1. Receives 50 percent of "military base lands" up to 15,900 acres (likely 6,000-8,000 acres).
2. Will participate with the Municipality in development of a generalized land management plan.
3. Receives approx. 700 acres within PLO 2787 (lower Eklutna Valley).
4. Recognized by parties that Eklutna's 3(e)(i) rights are not affected by this agreement. (Existing law is not affected.)
5. Relinquishes selection of 80 acres (E $\frac{1}{2}$ NW $\frac{1}{4}$, Section 6, T14N, R3E, SM) for conveyance to State as campground.
6. Places in land bank, established by Section 907 of ANILCA, land within Chugach State Park to be reconveyed to State. Agrees to reconvey 4.51 acres to State for every acre received in "military base lands" as provided by this agreement.
7. Requests BLM to expedite conveyance of lands placed in land bank.
8. Receives 50 percent of revenue produced by sale or other income transaction on "public interest lands" established by this agreement. (This provision primarily affects any future leasing of municipal "community service lands.")

12. Receives any ANCSA 3(e)(i) lands not conveyed to Eklutna.

13. Receives immediate management authority over all Eklutna lands within Chugach State Park placed in land bank pursuant to this agreement (approx. 27,000 acres).

14. Receives fee title to Eklutna Lands placed in land bank according to priority listing.

15. Receives commitment from Eklutna to enter into an equal-value land exchange (pursuant to AS 38.50 to acquire:

- a. 150 acres (six tracts in Eagle River valley for public recreational use.
- b. Tract B, Thunderbird Heights Subdivision.

*IMPORTANT NOTE: NO military lands are surplus by this agreement. The agreement merely provides for the future interests of the parties if and when any portion of the military lands are ever surplus by the Federal government. However, the State's management authority over all Eklutna lands within Chugach State Park is immediate.

MENTAL HEALTH LITIGATION SETTLEMENT*

STATE

1. Intervenes and dismisses litigation (Eklutna v Andrus).
2. Receives title to 21,570 acres within Palmer Hay Flats State Game Refuge, Chugach State Park, along Knik River access, Edmonds Lake.
3. Receives title to gravel recharge areas adjacent to Knik River.
4. Relinquishes selections on lands to be conveyed to Eklutna.

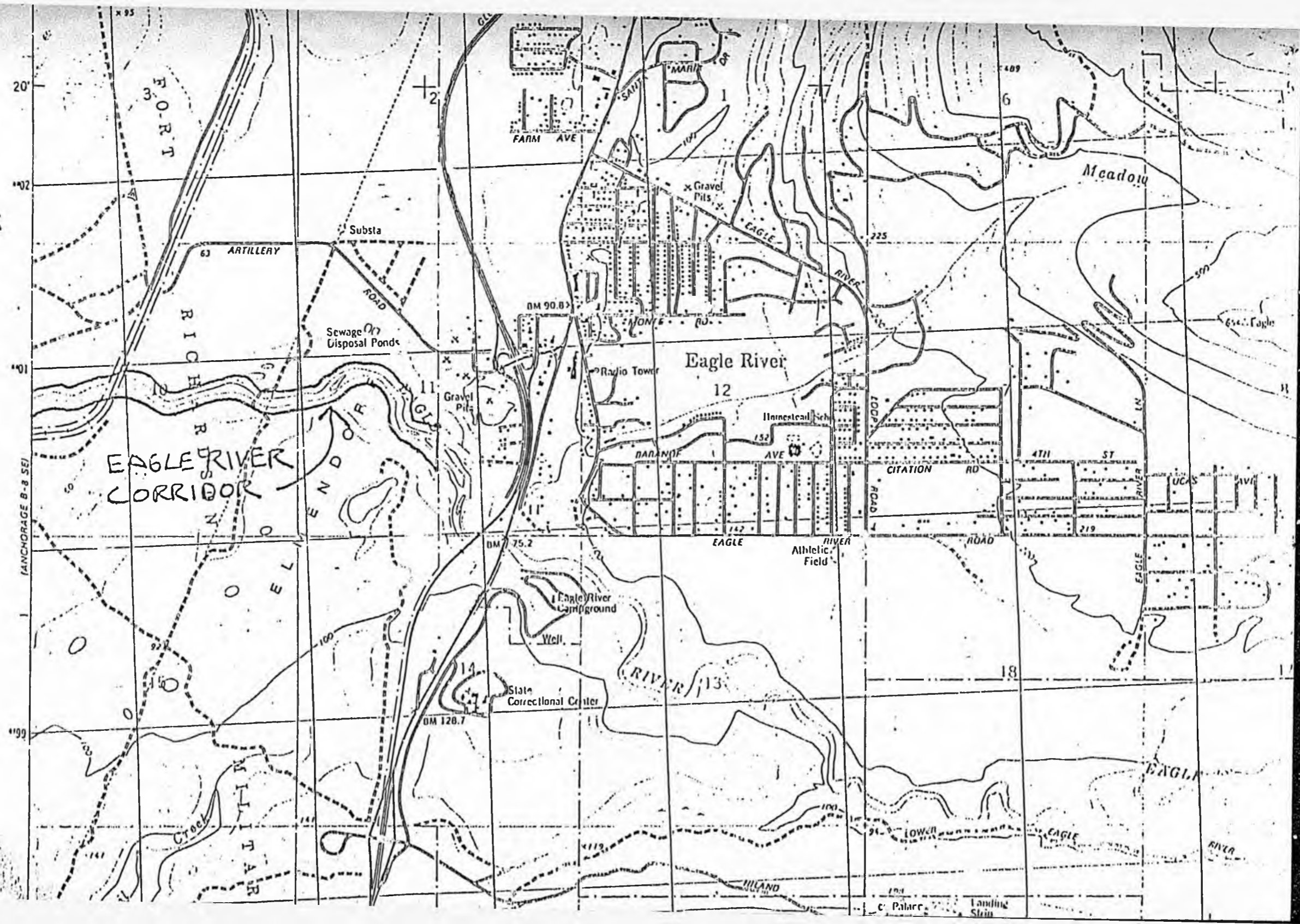
EKLUTNA

1. Dimisses Litigation (Eklutna v. Andrus).
2. Receives title to 12,990 acres (approx 2,980 acres of potentially "developable" land) including Lower Eklutna River Valley (formerly state park land), Knik River flats, lands along Glen Highway near village.
3. Relinquishes selections on lands to be conveyed to State

*IMPORTANT NOTE: The State has not been a party to the litigation. However, by executing this agreement the State will invoke the Congressional authority of Sec. 1425 of ANILCA and bind the Federal government to settle in accordance with the terms agreed to by the State and Eklutna.

ORIGINALS ON
ENGINEERING

EXHIBIT A (COPY)



EAGLE RIVERS
FLATS

12

ROUTE 7
EAGLE RIVER
FORT

FLATS

RY
18

RESIDUAL

EAGLE RIVERS
CORRIDOR

CHAMPION

ROUTE BRNO

Gravel Pit

Olive Lake 24

**98
17.30'

**99

(ANCHORAGE B-7 SW)

**01

**02

EX N



EX. A



Military Lands to be Conveyed to the State

Eagle River Flats

All lands with the area known as Eagle River Flats, as depicted on the attached map and approximately described as follows:

Commencing at a point in the S2 of Section 2, Township 14 North, Range 3 West, Seward Meridian, which is formed by the intersection of the line of Mean High Water (MHW) and the north-south 1/4 line of Section 2, Township 14 North, Range 3 West, Seward Meridian; Thence meandering in a counterclockwise direction along the base of the bluff, around Eagle River Flats to an unnamed road sometimes called Route Bravo; Thence northerly along the east side of the unnamed road, leaving said roadway at the point of curvature of the road to the west, in a northerly direction to the intersection of a line 200 feet from and paralleling the left bank of Eagle River which is established elsewhere in this agreement; Thence northwesterly to the unnamed road; Thence northwesterly along the west side of said road and a bridge to the S 1/16th corner common to Sections 7 and 8 of Township 14 North, Range 2 West, Seward Meridian; Thence northwesterly, northerly, westerly, and northwesterly along the base of the bluff to the point of intersection of the line of Mean High Water (MHW) of Knik Arm, said point being located within the NW4NW4 of Section 6, Township 14 North, Range 2 West, Seward Meridian; Thence south and southwesterly along the

line of Mean High Water (MHW), crossing the mouth of Eagle River, and continuing to meander along the line of Mean High Water (MHW) returning to the point of beginning. Subject to the right of the State, the Municipality and Eklutna to use and allow others to use the road.

Eagle River Corridor

All lands lying within a corridor bound by meander lines located 200 feet inland and upland of the lines of Ordinary High Water (OHW) of both the left and right banks of Eagle River, including the lands located between the ordinary high water marks on each bank. Said corridor being located within:

Township 14 North, Range 2 West, Seward Meridian

Section 9: S2
Section 10: S2N2, N2S2
Section 11: W2
Section 16: NW4
Section 17: N2

NOTE: In all legal descriptions in these Exhibits the use of the number 2 or 4 in an aliquot part description refers to the fractions 1/2 and 1/4, respectively.

Mountain and Moose Range

Township 14 North, Range 1 West, Seward Meridian

Section 31: N2SW4

Township 14 North, Range 2 West, Seward Meridian

Section 22: Portion lying east and south of the New Glenn Highway right of way

Section 23: Portion of the SW4 lying east and south of the New Glenn Highway right of way

Section 25: S2, E2NE4.

Section 26: S2, NW4

Section 27: E2

Section 33: Portion lying east and south of the New Glenn Highway right of way

Section 34: All

Section 35: All

Section 36: All

Goose Bay Military Withdrawal (not depicted on Exhibit A maps)
All lands withdrawn by Public Land Orders 2993, 1345, 1102, or 1523 within Sections 6, 7, 8, 16 and/or 17 of Township 15 North, Range 3 West, Seward Meridian.

MANAGEMENT AGREEMENT AND
RECONVEYANCE LANDS: EKLUTNA TO STATE

All Unconveyed (03/15/82) Eklutna
Selections within:

<u>Sequence of Reconveyance</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Approximate Acres</u>
1	19	14N	3E	625.04
2	28	14N	3E	640
3	21	14N	3E	640
4	18	14N	3E	623.28
5	16	14N	3E	640
6	17	14N	3E	640
7a	8	14N	3E	640
7b	7	14N	3E	621.52
8	12	14N	2E	640
9	5	14N	3E	640
10	6	14N	3E	539.76
11	1	14N	2E	480
12	36	15N	2E	145
13	31	15N	3E	498
14	30	15N	3E	596
15	19	15N	3E	615
16	25	15N	2E	79
17	26	15N	2E	55
18	23	15N	2F	140
19	24	15N	2E	165
20	13	15N	2E	40
21	14	15N	2E	170
22	22	15N	2E	60
23	15	15N	2E	210
24	16	15N	2E	165
25	10	15N	2E	85
26	17	15N	2E	40
27	9	15N	2E	239.24
28	8	15N	2E	381.36
29	7	15N	2E	80
30	5	15N	2E	637
31	12	15N	1E	640
32	1	15N	1E	435
33	11	15N	1E	640
34	2	15N	1E	640
35	10	15N	1E	640
36	3	15N	1E	640
37	9	15N	1E	640
38	4	15N	1E	640
39	5	15N	1E	640
40	6	15N	1E	609.94
41	32	15N	1E	640
42	29	15N	1E	640
43a	30	15N	1E	616.30
43b	27	15N	1W	640.8
44	24	15N	1W	640
45	19	15N	1E	393.84
46	17	15N	1E	640
47	18	15N	1E	464.07
48	13	15N	1W	300.33
49a	32	15N	1W	160
49b	20	16N	2E	480
49c	17	16N	2E	320
50	25	15N	3E	640

51	24	15N	3E	640
52	13	15N	3E	640
53	12	15N	3E	640
54	1	15N	3E	<u>640</u>
			Subtotal:	27,070.48 ⁺
55 (northeast of	2	16N	3E	300
56 right bank of	1	16N	3E	610
57 Knik River)	12	16N	3E	95.10
			Subtotal:	1,005.1
			TOTAL	<u>28,075.58⁺</u>

Lands State Receives and Eklutna Relinquishes

Township 17 North, Range 3 East, Seward Meridian

Section 15: . All
Section 16: Lot 1, Lot 2
Section 17: S2 of Lots 1 and 2
Section 19: S2SW4, NE4SW4, SW4SE4
Section 20: Lot 1, Lot 2, Lot 3, Lot 4
Section 21: Lot 1, Lot 2, Lot 3, Lot 4
Section 22: All
Section 23: All
Section 25: All
Section 26: Lot 1
Section 27: Lot 1 and Lot 2 excluding USS 3199
Section 28: Lot 1, Lot 2, Lot 3
Section 29: Lot 1, Lot 2
Section 30: NW4NW4, E2NW4, NE4SW4, W2NE4, N2SE4
Section 31: Lot 2* and S2, E2NE4, SW4NE4, SE4NW4 of
Lot 1
Section 32: Lot 1, Lot 2*
Section 33: Lot 1, Lot 2, Lot 3*
Section 34: Lot 1, Lot 2, Lot 3*, excluding USS 3199
Section 35: Lot 1 excluding USS 3199
Section 36: All

*NOTE: See Section IV of this Agreement

Mental Health Lands - Lands State Will Receive

Township 14 North, Range 1 West, Seward Meridian

Section 5: Lot 1, Lot 2, Lot 3, S2NE4, SE4NW4, SE4SW4,
S2SW4SE4, SE4SE4, NE4SE4, N2NW4SE4

Township 16 North, Range 1 West, Seward Meridian

Section 1: Lot 1, Lot 2, Lot 3, E2, E2SW4, SW4SW4
Section 2: Lot 5, Lot 6, Lot 7, Lot 8
Section 3: Lot 5
Section 9: All, if any
Section 10: Lot 1, Lot 2, Lot 3, Lot 4, Lot 5,
Lot 6, SE4NE4, NW4SE4
Section 11: Lot 1, Lot 2, Lot 3, Lot 4, NW4, NW4NE4
Section 12: Lot 1, Lot 2, Lot 3, Lot 4
Section 36: Lot 2, Lot 3, SE4SW4, SW4SE4, E2SE4

Township 15 North, Range 2 East, Seward Meridian

Section 4: All
Section 6: Lot 1, Lot 2, Lot 3, Lot 4, SE4NE4,
NE4NE4SE4, N2NW4NE4SE4, and other
state selected and available lands
Section 7: Portion of Lot 1 excluding SE4NE4 and
NE4SE4
Section 9: N2NE4 of Lot 1
Section 10: N2, SE4, NE4SW4 of Lot 1
Section 11: All
Section 13: N2, SE4, E2SW4, NW4SW4
Section 14: E2NE4, NW4NE4, N2NW4 of Lot 1
Section 15: NE4NE4 of Lot 1
Section 16: SW4, S2SE4, NW4SE4, SW4NW4 of Lot 1
Section 17: NW4NE4, S2NE4, SE4, W2
Section 18: All

Section 22: S2, NW4, S2NE4 of Lot 2
 Section 23: W2SW4, SE4SW4 of Lot 3
 Section 24: NE4, N2SE4, SE4SE4 of Lot 1
 Section 26: W2, SE4, SW4NE4 of Lot 2
 Section 35: All
 Section 36: W2SW4 of Lot 2

Township 16 North, Range 1 East, Seward Meridian

Section 2: Portion lying west of the railroad
 Section 3: Lot 1, excluding portions lying east of the Alaska Railroad centerline, Lot 2, Lot 3, Lot 4, Lot 5, Lot 6, NW4, NW4NE4
 Section 4: Lot 1, Lot 2, E2, NE4NW4, S2NW4, SW4
 Section 5: Lot 1, NW4NE4, S2NE4, SE4, W2
 Section 6: Lot 1, Lot 2, Lot 3, Lot 4, E2W2, W2
 Section 7: Lot 1, Lot 2, Lot 3, Lot 4, N2NE4, NE4NW4, Lot 1 of island and all other islands, if any
 Section 8: Lot 1, Lot 2, Lot 3, Lot 4 and all other islands, if any
 Section 9: Lot 1, Lot 2, Lot 3, Lot 4 and all islands, if any
 Section 10: Lot 1, Lot 2, Lot 3, Lot 4, Lot 6, and all other islands, if any, excluding portion of lands lying east of railroad (if any)
 Section 15: That portion of Lot 6 lying west of the centerline of the Alaska Railroad
 Section 21: S2SE4, SE4SW4
 Section 22: S2S2
 Section 23: S2S2
 Section 24: S2S2

Section 25: All

Section 26: All excluding Patent No. 50-75-0024

Section 27: That portion lying North and East of and including, the Eklutna Lake Road right-of-way, excluding Public Land Order 2787 and Patent No. 50-74-0028

Section 31: All

Section 32: S2, SW4NW4

Section 33: S2S2

Section 35: That portion lying North and East of and including, the Ekluant Lake Road right-of-way, excluding Patent Nos. 50-75-0025 and 50-76-0139

Section 36: All

Township 16 North, Range 2 East, Seward Meridian

Section 1: Lot 5

Section 2: Lot 10 and Lot 9 west of the Old Glenn Highway Bridge, excluding USS 2491

Section 3: Lot 9

Section 4: Lot 1

Section 7: Lot 6

Section 8: Lot 8, Lot 9

Section 9: Lot 5 of USS 3568, Lot 5

Section 10: Lot 3

Section 11: Lot 1

Section 12: All

Section 16: Lot 1

Section 17: Lot 1

Section 19: S2

Section 20: NE4

Section 21: All

Section 22: All

The reference maps for Exhibit E are the same maps as those attached to Exhibit F.

Mental Health Lands - Lands Eklutna Will Receive

Township 14 North, Range 2 West, Seward Meridian

Section 11: Lot 15, Lot 16, Lot 17

Township 16 North, Range 1 West, Seward Meridian

Section 22: Lot 1

Section 25: SW4

Section 26: All, excluding Public Land Order 2672 and
Public Land Order 755

Section 27: Lot 1, Lot 2, Lot 3, Lot 4, SE4NE4,
SE4, E2SW4, SW4SW4

Section 28: Lot 1, Lot 2, Lot 3, SE4SE4

Section 32: Lot 1, Lot 2, Lot 3, Lot 5

Section 33: Lot 1, Lot 2, Lot 3, Lot 4, E2, SE4SW4,
E2NW4, SW4NW4

Section 34: All

Section 36: NE4, E2NW4, NE4SW4, NW4SE4

Township 16 North, Range 1 East, Seward Meridian

Section 1: All

Section 2: All excluding that portion (if any) lying
west of the centerline of the railroad

Section 3: That portion lying east of the centerline
of the railroad

Section 10: That portion (if any) lying east of the
centerline of the railroad

Section 11: All excluding that portion (if any) lying
west of the centerline of the railroad

Section 12: All

Section 13: N2SW4

Section 14: All

- Section 15: That portion lying south of the Knik River and that portion lying North of the left bank of the Knik River and East of the centerline of the railroad.
- Section 16: That portion lying south of the Knik Arm
- Section 17: Lot 1, Lot 2
- Section 20: Lot 1, Lot 2, NE4NE4, S2NE4, SE4NW4, S2
- Section 21: N2, N2S2, SW4SW4
- Section 22: N2, N2S2
- Section 23: N2, N2S2
- Section 24: N2, N2S2
- Section 27: That portion lying South and West of Eklutna Lake Road right of way excluding Patent No. 50-74-0028 and Public Land Order 2787 as amended
- Section 28: All, excluding Patent No. 50-74-0028 and Public Land Order 2787 as amended
- Section 29: S2NE4, NW4, S2
- Section 32: NE4, N2NW4, SE4NW4
- Section 33: N2, N2S2
- Section 34: All
- Section 35: That portion lying south and west of the Eklutna Lake Road right of way excluding Patent Nos. 50-75-0025 and 50-76-0139

Township 16 North, Range 2 East, Seward Meridian

- Section 1: All islands, if any
- Section 4: All south of right bank of Knik River
- Section 5: All
- Section 6: All
- Section 7: All excluding Lot 6

Section 8: All, excluding Lot 8, Lot 9, and USS 3234
and USS 3243

Section 9: All north of left bank of Knik River

Section 10: All north of left bank of Knik River

Section 11: Lot 2



Official Business

Alaska State Legislature

Senate Resources Committee

Pouch V
State Capitol
Juneau, Alaska 99811

To: Bettye

From: Pat

Subject: DNR Briefing on North Anchorage ("Eklutna") Land Agreement
Monday, January 24, 1983, 1:30 PM, House Resources, Rm.118

PRESENTORS

Esther Wunnicke, Commissioner DNR probably accompanied by aides-- specifically, State Parks has had the lead on this.

In audience and available for comment, questions:

Dan Alex, President Eklutna, Inc.

Municipality of Anchorage representative (probably Patrick Anderson).

I also talked with Cook Inlet Regional Corporation, but they did not think they would be there (they are not signatories to agreement)

BACKGROUND

Because of Eklutna's location so close to the Anchorage urban area and because much adjacent land had already been selected, or conveyed to the State of Alaska at the time of the Native Claims Act (1971), the Native village of Eklutna had a hard time coming up with useable land to select around the village. In addition, it was unclear what the status of some lands was and they were claimed by both the State and Eklutna. Furthermore, some lands located within Chugach State Park near Eklutna had not been conveyed yet to the State and were validly selected by Eklutna.

Thus, there arose two court suits between the Sec. of the Interior and Eklutna over what lands could be selected by Eklutna. Plus, the State and people of Anchorage were upset over the Eklutna selections in prime recreation areas within Chugach State Park in back of Anchorage.

And a final issue was that over the Fort Richardson lands located just north of Anchorage. Both the Municipality of Anchorage and Eklutna wanted to have some of this prime real estate if it were ever declared excess to military needs. The State also wanted several key transportation and recreation areas should it be excessed.

It was felt by all parties, the State, the Municipality and Eklutna, that one comprehensive agreement could probably solve most of these problems and opportunities. So, in ANILCA, the "D-2" bill, section 1425 was agreed to which set up the procedures and authority for such an agreement.

MAJOR PROVISIONS OF THE AGREEMENT

Subject to approval by the Legislature by July 1, 1983, the Agreement provides for the following:

- 1) The Ft. Richardson lands. If and when the lands should be declared excess, the Municipality and Eklutna would divide them up more or less evenly, except for 3,000 acres of public lands for use by the Muni.; public easements and rights-of-way, and several thousand acres which would go to the State for transportation, recreation and wildlife habitat purposes.

Eklutna would have to give up about 4 times as much acreage in Chugach State Park for any acreage it receives in military lands.
- 2) The law suits. The two law suits would be dismissed and the lands in controversy divided up as agreed to in the Agreement between the State and Eklutna.
- 3) Key recreation sites and lands in Chugach State Park could be acquired by trade from Eklutna by the State.
- 4) About 27,000 acres of Eklutna land within Chugach State Park would be turned over to DNR State Parks for full management authority and would be placed in the Land Bank as provided for in section 907 of ANILCA. (Land Bank lands cannot be sold or developed in return for tax and legal immunities).

QUESTIONS

In general, this appears to be a good agreement and has received widespread support by parties, press, environmentalists, real estate interests. But, the following clarifying questions might be useful:

- 1) WHAT LANDS AND RESOURCES WOULD THE STATE BE GIVING UP? TA'd LANDS? POTENTIAL SELECTIONS?
- 2) IN THE TRANSMITTAL LETTER DNR SAYS THAT THIS AGREEMENT DOES NOT HAVE TO BE SUBMITTED FOR APPROVAL BY THE LEGISLATURE UNDER STAT. 38.50 GOVERNING STATE LAND EXCHANGES. WHY NOT? ARE STATE LANDS NOT BEING EXCHANGED? IS THIS AN "EQUAL-VALUE" EXCHANGE BASED ON APPRAISALS? HAVE THE HEARING AND NOTICE PROCEDURES UNDER 38.50 BEEN FOLLOWED?
- 3) WHAT WILL BE THE FORM OF THE LEGISLATION BEING ASKED FOR AND WHEN CAN WE EXPECT IT?
- 4) ON PAGE 28, NO. R FUTURE LAND EXCHANGES ARE AGREED ON TO OBTAIN RECREATION AREAS. WHEN WILL THAT OCCUR?
- 5) WE UNDERSTAND THAT THERE MAY HAVE BEEN SOME DISAGREEMENTS WITH THE SUBSURFACE PROVISIONS IN THE AGREEMENT BY COOK INLET REGION, INC. ARE THESE NOW RESOLVED OR BEING RESOLVED? (yes).
- 6) HAS THE RAILROAD LEGISLATION WHICH RECENTLY PASSED THE CONGRESS HAD ANY EFFECT ON THIS AGREEMENT? HOW ARE RR LANDS HANDLED?

- 7) ON PAGE 25-26, L.(4) PROVIDES THAT CERTAIN LANDS IN CHUGACH STATE PARK OWNED BY EKLUTNA WILL BE PLACED IN THE LAND BANK AUTHORIZED IN SEC. 907 OF ANILCA. ALTHOUGH THIS CAN BE DONE THROUGH THE SEC. OF INTERIOR, IT SEEMS THE STATE WOULD BE A MORE LOGICAL PARTY TO SUCH AN AGREEMENT. UNDER THE TERMS OF 907 THE STATE CAN PARTICIPATE IN THE LAND BANK PROGRAM IF IT ADOPTS LAWS OF APPLICABILITY TO SEC. 907. DOES DNR HAVE ANY PLANS TO SEEK LEGISLATION TO PARTICIPATE IN THE LAND BANK PROGRAM?
- 8) WHAT IS THE LIKELIHOOD AND ESTIMATED TIMEFRAME FOR ANY MILITARY LANDS IN THE ANCHORAGE BEING DECLARED EXCESS?
- 9) IF MILITARY LANDS ARE NOT DECLARED EXCESS IN THE NEAR FUTURE, ARE THERE OTHER AVENUES FOR OBTAINING NEEDED TRANSPORTATION AND RECREATIONAL LANDS IN THE AREA BY THE STATE OF ALASKA?

cessing, handling, transfer in transit, forwarding, and delivery of the minerals. (§ 1 ch 72 SLA 1972; § 1 ch 72 SLA 1972; am § 22 ch 3 FSSLA 1973; am § 70 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment, effective May 23, 1982, substituted "Alaska Public Utilities Commis-

sion" for "Alaska Pipeline Commission" in paragraph (2).

Chapter 40. Local Hire Under State Leases.

Section
10-90. [Repealed]

Secs. 38.40.010 — 38.40.090.

Repealed by § 36 ch 94 SLA 1980.

Editor's notes. — The repealed chapter derived from § 1, ch. 191, SLA 1972; §§ 2-10, ch. 183, SLA 1976.

Hicklin v. Orbeck, Sup. Ct. Op. No. 1435 File No. 3025), 565 P.2d 159 (1977), referred to in the main pamphlet, was reversed in 437 U.S. 518, 95 S. Ct. 2482, 57 L. Ed. 2d 397 (1978), in which the United States Supreme Court held that this chap-

ter's across-the-board discrimination against nonresidents violated the privileges and immunities clause of the United States Constitution.

For case holding this chapter unconstitutional, see Hicklin v. Orbeck, 437 U.S. 518, 98 S. Ct. 2482, 57 L. Ed. 2d 397 (1978).

Chapter 50. Exchange of State Land.

Section
40 Land subject to exchange
110 Notice of proposed exchange
130 Report on proposed exchange

Sec. 38.50.040. Land subject to exchange. Except as otherwise provided in AS 38.50.010 — 38.50.170, the director is authorized to convey for purposes of exchange any state land or interest in land regardless of the authority under which the land or interest was obtained by the state. The conveyance of university land shall be approved in the manner prescribed in AS 38.05.030. (§ 1 ch 240 SLA 1976; am § 13 ch 181 SLA 1978; am § 17 ch 182 SLA 1978)

Effect of amendments. — The first 1978 amendment deleted "and the conveyance of mental health land shall be approved by a board composed of the director of the division of mental health, the chairman of the Mental Health Advisory Council, and the commissioner of revenue" from the end of the second sentence.

The second 1978 amendment, in the second sentence, deleted "and school land" following "university land" and deleted "and the conveyance of mental health land

shall be approved by a board composed of the director of the division of mental health, the chairman of the Mental Health Advisory Council, and the commissioner of revenue" from the end of the sentence

Editor's notes. — Section 18, ch. 182, SLA 1978, purported to amend this section by deleting the second sentence. Section 27 of ch. 182 made this amendment effective on the date that the Board of Regents voted to approve the matters under consideration as provided in § 24 of the act.

The Board of Regents disapproved all matters on August 17, 1978. Consequently, this amendment was ineffective.

Sec. 38.50.110. Notice of proposed exchange. (a) Not more than 60 days nor less than 30 days before a public hearing is scheduled under AS 38.50.120 the director shall circulate a notice containing the information specified in (b) of this section. The director shall

(1) publish or post the notice as provided in AS 38.05.345, except as otherwise specified in this section. The director shall publish the notice in a newspaper of general circulation in the vicinity of the land which the state will receive and in the three most populated cities of the state;

(2) mail the notice to any person who has filed a request for notice of proposed exchanges;

(3) mail the notice to each member of the legislature;

(4) mail the notice to each municipality the boundaries of which encompass or are located within six linear miles of land involved in the proposed exchange;

(5) circulate the notice to the Office of the Governor and to all state departments;

(6) Repealed by § 20 ch 182 SLA 1978.

(7) mail the notice to any corporation organized under the Alaska Native Claims Settlement Act, which corporation owns or has selected land located within a radius of 15 linear miles from land or property involved in the proposed exchange; and

(8) mail the notice to any other party, including an organization of land users, that he considers appropriate.

(b) The notice of proposed exchange shall include the following information:

(1) a statement of the proposed action and a legal or other appropriate description of the tracts and potential uses of land involved in the proposed exchange;

(2) a map of sufficient scale to allow identification of each tract in relationship to reference points which are easily identified by laymen;

(3) the name and post office address of each party to the proposed exchange;

(4) a statement that any person asserting a claim to the property involved or desiring to comment or to obtain further information concerning the exchange should contact the office designated in the notice;

(5) the date, time, and place of a public hearing which has been scheduled in connection with the proposed exchange. (§ 1 ch 240 SLA 1976; am § 14 ch 181 SLA 1978; am § 20 ch 182 SLA 1978)

Revisor's notes. — AS 38.50.110(a)(6) was amended by sec 14, ch. 181 SLA 1978 and was repealed by sec. 20, ch. 182 SLA 1978. Although it appears likely that the repeal of AS 38.50.110(a)(6) in ch. 182 was intended to be covered by the contingent effective date contained in sec 27 of that Act, it was not included in that section or any of the other special effective date sections. Consequently, the repeal is treated

as having the constitutional effect of 90 days after ch. 182 became law. This repeal is treated as superseding the amendment contained in ch. 182.

Effect of amendments. — 1978 amendment, in subsection inserted "or" following "university" and deleted "or mental health" following "school land" in paragraph which was repealed by the second amendment.

Sec. 38.50.130. Report with the public notice required to be prepared and distributed shall be prepared and distributed to the persons listed in AS 38.50.110(a)(2). The report shall contain the information required by AS 38.50.110 to facilitate public understanding.

(1) the physical characteristics of the surface and mineral resources;

(2) the appraised fair market value of the exchange or, if the exchange is not a market value, the nonmarket value;

(3) the benefits and detriments, including possible social, economic, and cultural impacts;

(4) alternatives to the proposed exchange.

(b) Upon termination of the exchange, the report and any comments, if appropriate, to reflect the views of the public that come to the director's attention shall be made available. (1976; am § 71 ch 59 SLA 1978)

Effect of amendments. — 1978 amendment, effective May 28, 1978, substituted "AS 38.50.110(a)(2)" for "AS 38.50.110(a)(1)".

Chapter 95.

Article
4. Survey and Improvement of Land

Article 1. Manner of Acquisition of Land
un

Sec. 38.95.010. State's Possession or Prescription

Applied in *Walsh v. Emeric*, Op. No. 2072 (File No. 4655), 6/11/1980; *Classen v. State*, Dept

as having the constitutional effective date of 90 days after ch. 182 became law, and this repeal is treated as superseding the amendment contained in ch. 181.

Effect of amendments. — The first 1978 amendment, in subsection (a), inserted "or" following "university land" and deleted "or mental health land" following "school land" in paragraph (6), which was repealed by the second 1978 amendment.

The second 1978 amendment, in subsection (a), repealed paragraph (6), which read "mail the notice to the appropriate board or other entity or person with approval authority as indicated in AS 38.50.040 and AS 35.05.030, when university land or school land is involved in the proposed exchange."

Sec. 38.50.130. Report on proposed exchange. (a) In conjunction with the public notice required by AS 38.50.110, the director shall prepare and distribute the report required by this section to the parties listed in AS 38.50.110(a)(2) — (8) and to any other party who requests it. The report shall contain, among other things, a copy of the notice required by AS 38.50.110 and a discussion in a concise format designed to facilitate public understanding of the issues of

- (1) the physical characteristics of the land involved, including the surface and mineral resources associated with the land;
- (2) the appraised fair market value of each tract involved in the exchange or, if the exchange is for other than equal appraised fair market value, the nonmonetary values which are involved;
- (3) the benefits and detriments which can be expected to accrue, including possible social, economic, and environmental impacts; and
- (4) alternatives to the proposed exchange.

(b) Upon termination of the period provided for agency and public comment, the report and the proposed land exchange may be revised, if appropriate, to reflect comments or other information which has come to the director's attention. A brief summary of all comments and information received shall be appended to the report. (§ 1 ch 240 SLA 1976; am § 71 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment, effective May 28, 1982, substituted "AS 38.50.110(a)(2) — (8)" for "AS 38.50.120(a)(2) — (8)" in the introductory language of subsection (a).

Chapter 95. Miscellaneous Provisions.

Article

4 Survey and Improvement of State Land (§§ 38.95.150 — 38.95.160)

Article 1. Manner of Conveying State's Interest in Land under Its Jurisdiction.

Sec. 38.95.010. State's interest may not be obtained by adverse possession or prescription.

NOTES TO DECISIONS

Applied in *Walsh v. Emerick*, Sup. Ct. Op. No. 2072 (File No. 4655), 611 P.2d 28 (1980); *Classen v. State, Dep't of Hwys.*, Sup. Ct. Op. No. 2246 (File No. 4332), 621 P.2d 15 (1980).

Cross reference. — As to reservations to which contracts for sale, lease or grant of state land and deeds to state land, properties or interest in state land are subject, see AS 38.05.125.

Statute authorizing exchange of land between state, United States government

and regional corporation held in trust — See State v. Lewis, Sup. Ct. of Alaska, File No. 30391, 559 P.2d 630 (1977), cert. denied, 435 U.S. 911 (1978), under former AS 38.95.052.

Sec. 38.50.010. Authorization. Subject to the requirements of this chapter, the director, with the concurrence of the commission, is authorized to dispose of state land or interest in land by exchange for land, interest in land, or other consideration. Exchanges shall be made for the purpose of consolidating state land holdings, creating new ownership and use patterns which will permit more efficient administration of the state public domain, facilitating the operation of state programs, or other public purposes. (§ 1 ch 240 SLA 1976)

Legislative committee report. — For report on ch. 240, SLA 1976 (FCCS HCS CSSB 726), see 1976 House Journal, p. 1432.

Sec. 38.50.020. Value of properties exchanged. (a) The land and other consideration which the state receives in an exchange made under this chapter shall be equal to or exceed the appraised fair market value of the land, interest in land or property exchanged with the state; however, the director may accept cash from, or pay cash to, another party to an exchange in order to equalize the value of the property or other consideration conveyed and received by the state. If the director determines that the property to be exchanged is not equal in appraised fair market value or if the value cannot be ascertained with reasonable certainty, the director may enter into an exchange if he finds that the appraised fair market value of the property to be received, together with the value of other public benefits, equals or exceeds the value of the property which the state will relinquish. (An exchange for cash of equal appraised fair market value is subject to legislative review as provided in § 140 of this chapter.)

(b) An appraisal required by this section is presumed accurate and valid for a period of six months from the time the appraisal is completed. After that time, or if the director has reason to believe that the value of the appraised property has changed significantly during the six-month period, a reappraisal of the property is required. (1976 SLA 1976)

Sec. 38.50.030. Parties. (a) The director may exchange land or interest in land with a government agency, organization, corporation,

or other person. At the time of exchange, the director shall determine if the party desires to exchange. If the party has the authority to act as principal, the director may negotiate the exchange, however, in order to carry out the purposes of this chapter having to do with land and other considerations, the exchange were ex-

Sec. 38.50.040. Land subject to exchange. Under this chapter, the director may exchange any state land or interest in land under which the land is held in trust for the benefit of university land, as prescribed in AS 38.05.010, and shall be approved by the board of mental health, the council, and the commission.

Sec. 38.50.050. Conveyance of state land. Under this chapter, the director may convey any state land or interest in state land owned by the state consisting of a fee simple interest, but the director may not exchange or convey any state land or interest in it, one without the other, as prescribed by a prior separate law, or the director may convey the surface or mineral rights in state land to achieve a significant public purpose.

Sec. 38.50.060. Reservation of state land. The director may reserve any patent or other right in state land or interest in state land and covenants may be included to protect or promote the public interest. Reservations may include, but are not limited to, environmental protection, and the reservation of land which is subject to the reservations and conditions set forth in ch 240 SLA 1976.

Sec. 38.50.070. Valid existing contracts. Contracts entered into under this chapter are subject to the provisions of this chapter, but the director's discretion is waived, and the director may

... person. At the beginning of discussions concerning exchange, the director shall require proof that each party is the owner of, or is legally entitled to, the property which the party desires to exchange and proof that a person acting as the party has the authority to negotiate an exchange in the principal.

... may negotiate an exchange involving more than one party in order to ascertain whether the equal value requirements of this chapter have been met, the director shall consider other consideration which the state would convey and if the exchange were executed. (§ 1 ch 240 SLA 1976)

38.50.040. Land subject to exchange. Except as otherwise provided in this chapter, the director is authorized to convey for exchange any state land or interest in land regardless of the order in which the land or interest was obtained by the state. Conveyance of university land and school land shall be approved in accordance with AS 38.05.030, and the conveyance of mental health land shall be approved by a board composed of the director of mental health, the chairman of the Mental Health Board, and the commissioner of revenue. (§ 1 ch 240 SLA 1976)

38.50.050. Conveyance of mineral rights. Subject to the provisions of this chapter, the director is authorized to exchange mineral rights in state land to the extent that the conveyance is permitted by the state constitution and applicable federal law. The director may not exchange or receive the surface estate of land or the mineral rights in it, one without the other, unless the separation of estate is required by a prior separation of ownership or by restrictions in the title or the director otherwise finds that the conveyance or exchange of the surface or mineral estates, one without the other, is necessary to achieve a significant public purpose. (§ 1 ch 240 SLA 1976)

38.50.060. Reservations and covenants. The director may include in any patent or other instrument issued under this chapter any reservations and covenants relating to the land which he considers necessary to protect or promote the public interest. Reservations and covenants may include, but are not limited to, those relating to access, protection, and use or development rights. The director may issue any instrument which is subject to reservations and covenants if he determines that the reservations and covenants are consistent with the public interest. (§ 1 ch 240 SLA 1976)

38.50.070. Valid existing rights. Conveyances made by the state under this chapter are subject to valid existing rights, including, but not limited to, contracts, permits, leases, rights-of-way, and easements. If a reservation is waived, the appropriate state agency shall continue

Title 39
Public Officers
and Employees

Title 43
Agriculture and Forestry

Title 40
Public Records
and Records

Title 44
State Government

Title 41
Public Resources

Title 42
Public Utilities
and Carriers