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STATE OF ALASKA

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## Information Circular 1 PROPER CLAIM STAKING

*Revised Feb. 1, 1984*



DIVISION OF GEOLOGICAL AND  
GEOPHYSICAL SURVEYS

Alaska Department of  
**NATURAL  
RESOURCES**

STATE OF ALASKA  
Department of Natural Resources  
DIVISION OF GEOLOGICAL &  
GEOPHYSICAL SURVEYS

According to Alaska Statute 41, the Alaska Division of Geological and Geophysical Surveys is charged with conducting 'geological and geophysical surveys to determine the potential of Alaska lands for production of metals, minerals, fuels, and geothermal resources; the locations and supplies of ground waters and construction materials; the potential geologic hazards to buildings, roads, bridges, and other installations and structures; and shall conduct other surveys and investigations as will advance knowledge of the geology of Alaska.'

In addition, the Division shall collect, evaluate, and publish data on the underground, surface, and coastal waters of the state. It shall also acquire, process, and file data from well-drilling logs.

DGGS performs numerous functions, all under the direction of the State Geologist—resource investigations (including mineral, petroleum, geothermal, and water), geologic-hazard and geochemical investigations, and information services.

Administrative functions are performed under the direction of the State Geologist, who maintains his office in Anchorage (ph. 276-2653). Other DGGS offices are at:

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# PROPER CLAIM STAKING IN ALASKA<sup>1</sup>

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## GENERAL STAKING INFORMATION

### Classes of Minerals

Under the laws of the United States that provide for acquisition of rights to mineral deposits on the federal public domain, mineral substances are divided into three classes: locatable, leasable, and salable (or 'common') minerals.

- a) Minerals subject to location under the mining laws, sometimes called 'locatable' minerals. This class includes all metallic minerals and some nonmetallics such as asbestos, barite, gemstones, mica, and certain kinds of building stone. A mineral deposit having some property giving it distinct and special value is not a 'common variety' (item c) and therefore may be located.
- b) Minerals subject to leasing, sometimes called 'leasable' minerals. This class includes oil and gas, coal, phosphates, oil shale, potash, and sodium. Rights to deposits of these minerals are acquired by leasing the lands containing the deposit (leasing requirements on some state lands are more extensive - see item c).
- c) Materials subject to sale, sometimes called 'common varieties.' This class includes sand, stone, gravel, pumice, pumicite, and cinders. These materials are sold by the U.S. Bureau of Land Management (BLM) and the state Department of Natural Resources through its Division of Land and Water Management. Usually, a sale is made for a specified quantity of a type of material at a stated unit price. Currently, neither the state nor the federal government has any overall policies for the disposal of peat from lands they manage. However, some peat has been sold as a material by the BLM under 43CFR 3600 regulations and by the state Division of Land and Water Management under Alaska Statute (AS) 38.05.110-115.

<sup>1</sup>This brochure has been reviewed for correctness by qualified state and federal personnel, but it is not a legal document; it is simply a 'layman's guide,' and DGGS does not certify its completeness or perfect accuracy. The prospector or miner is responsible for complying with state and federal requirements.

## Acquiring a Mining Claim

American citizens and citizens of specified foreign nations have a right to prospect on unappropriated state and federal lands that are open to mineral entry. If a locatable mineral is discovered by prospecting, a mining claim (or, for some state lands, a mining leasehold location) can be staked and the locator has the right to explore or exploit the deposit. A legitimate mining claim excludes the land from exploration and staking by another party.

The rights vested with the mining claim include use of as much of the surface and its resources (for example, timber) as are necessary for prospecting and mining. These are regarded as mineral rights, not surface rights. The claim holder has the exclusive right to work the claim without being interfered with by others.

A flow sheet delineating the steps necessary to stake a claim is shown in the center section.

Federal and state laws differ—as do claim sizes—so it is imperative that the prospector know which agency manages the land before staking.

## STAKING CLAIMS ON FEDERAL LAND

### Claims on the Federal Public Domain

Before staking a claim on federal land, check with the BLM to see if the area you are interested in is open for mining—that is, the land in question has not been withdrawn from public use. On 1:63,360-scale (1 inch equals 1 mile) U.S. Geological Survey topographic quadrangle maps and 1:24,000-scale (3 inches equals 1 mile) township plats, the BLM will indicate the areas that have been closed to mining.

Next, check with any Alaska DGGs mining-information office (p. i). These offices have records of all mining claims on mylar overlays of U.S. Geological Survey 1:250,000-scale (1 inch equals 4 miles) quadrangle maps. The claims have been plotted according to location and status: active (current), inactive (lapsed), or patented. Paper copies of these maps are available for many quadrangles at \$2 each.

## Federal Land Withdrawals

Some federal domain, such as U.S. Park Service lands, are not open for claim staking, although valid claims in good standing staked before designation of national parks, wilderness areas, national monuments, and so forth can be maintained if applicable regulations are complied with.

The federal government may also withdraw other land from mineral entry under certain circumstances. If in doubt, be sure to contact the BLM, the U.S. Park Service, or the U.S. Forest Service.

Land selected by a Native corporation or the state is automatically closed to staking of federal claims.

### File with the Local Recording Office

Mining claims must be filed with the proper district recording office. (A list of all recorders, their addresses, and their respective areas is given in a DGGs map, Information Circular 24, 'Mining-claim recording districts of Alaska,' which is free on request from any DGGs office.)

Send two signed copies of the certificates of location (the certificate and location notice are combined on some forms) to the District Recorder of the recording district in which the claim is located, together with the filing fee. The fee is \$8 for the first page recorded, \$3 for each additional page, and \$1 for indexing each name or location over six. Recording must be completed within 90 days of location.

### File with the BLM

By law (Sec. 314 of P.L. 94-579, the Federal Land Policy and Management Act),<sup>2</sup> claims located before October 21, 1976, must have been filed with the BLM before October 22, 1979. (This is in addition to filing with the State Recorder.) Claims located after October 21, 1976, must be filed with the BLM within 90 days of location. (See center-section flow sheet.)

Each claim must be filed on a separate form, and each form must be accompanied by a nonrefundable \$5 service fee. A copy of the certificate of location and any accompanying maps, papers, or other documents that have been filed initially under the state law must accompany the

<sup>2</sup>Public law 94-579, 1978, U.S. Statutes at large: U.S. Government Printing Office, Washington, DC, p. 2743.

BLM filing fee. This includes any amendments that alter the location of the claim or site. But remember: all claims—whether state or federal—must be filed with the State Recorder in the mining district in which the claim is located.

If you are in doubt about which district to file in, contact any DGGs mining-information office (p. i) or send for a free copy of DGGs Information Circular 24.

#### Discovery

Mining claims on federal public domain are of two types, placer and lode. In both cases, a valuable mineral on or in the ground must be discovered before a claim can be staked, and the claim must include the discovery point inside its boundaries.

A discovery is defined by a number of early court and land-department decisions as a “valuable mineral in sufficient quantity as to encourage a normally prudent man, not necessarily an experienced miner, to expend time and money in the hopes of developing a profitable mine.” A discovery at one single point cannot legally be used as a basis for staking more than one claim.

There is no restriction on the number of claims that may be staked, but the locator should remember that assessment work (p. 7) must be done for each of his claims each year if he is to hold them.

#### Placer Claims

Placer claims are staked on ground where the mineral is not ‘in place,’ that is, where it has been moved from its original position in bedrock by erosion and weathering to another location in an unconsolidated deposit, usually in an ancient or modern streambed but possibly also in landslide material or beach sands. Placer claims may also be staked on such mineral deposits as explained on p. 1. A large, shapeless mineralized area is considered a placer, even though it is ‘in place,’ if the deposit can be mined by placer methods.

A federal placer claim may not exceed 1,320 feet in length or include more than 20 acres, that is, 1,320 by 660 feet. Lines should run north-south and east-west, if practicable.

An association placer claim is a claim staked by two or more persons for precious metals and may not exceed

20 acres per individual. For any claims other than precious metals, the maximum area that may be embraced by a single federal association claim is 160 acres; a claim of this size would have to be located by an association of eight people. Corporations are limited to 20-acre claims.

There is no limit to the number of placer claims that can be staked as long as the various legal requirements for a discovery are met.

A location notice (p. 15) must be posted on the claim and must state the name of the claim, name of the locator, date of location, description of the claim including including dimensions and compass directions), and signature of the locator. A placer claim might be described on the location notice by legal subdivisions, for example, ‘N1/2, SE1/4, SW1/4 sec. 21, T. 12 S., R. 17 E., Kateel River Meridian.’ An explanation of legal descriptions is given in ‘Guide for Obtaining and Holding a Mining Claim on State Land in Alaska’ (see last section of circular).

#### Lode Claims

Lode claims are staked where the valuable mineral is ‘in place,’ undisturbed in its original position in a vein or lode in bedrock.

Lode claims cannot be longer than 1,500 feet along the vein or extend more than 300 feet from the vein on either side.<sup>3</sup> The end lines should be parallel. Thus, the maximum allowable size of the lode claim is 1,500 by 600 feet, with the vein outcrops (or ‘apex’) bisecting the claim lengthwise. All claim dimensions are horizontal distances, not slope distances. For more details on staking lode claims, refer to the federal staking regulations.

#### Staking Posts

On either federal or state land, the claim corners, angles on claim lines, and witness posts must be either wooden posts 3 feet above ground and squared on four sides or rock cairns 3 feet high. The location notice must be posted on the northeast corner of the claim (or in a ‘witness monument’ describing the direction and distance to that corner plus the information that would normally appear on the cornerpost if the northeast corner is in-

<sup>3</sup>The exception is when ‘extralateral rights’ apply, namely, if the lode is found to extend downward beyond the vertical planes through the side lines of the claim.

accessible).

Make certain that the description of the location of a claim is as correct as possible. If you should certify the wrong creek, for instance, you might lose the claim. The location of the discovery point should be described.

Do not attempt to stake a mining claim unless you have made a discovery of:

- .A precious metal such as gold, platinum, or silver,
- .A base metal such as iron, copper, lead, antimony or tin, or
- .A valuable nonmetallic mineral such as asbestos or barite.

#### Rights not Conferred by a Mining Claim

Mining claims do not give any right to oil, gas, coal, or common gravel and stone (p. 1). Timber rights are limited to what is used to develop the claim (p. 11).

Trying to acquire a cabin site by staking a mining claim is considered trespass. Squatters are subject to eviction and possible civil and criminal penalties. (In addition, the government might dismantle the dwelling.) In most cases, an unpatented mining claim does not include the right to deny others surface access to the land if: a) access does not interfere with the mining operation and b) access is also a valid use under law. Also, an unpatented claim does not include the right to deny inspection by state, federal, or local law-enforcement officers. (Owners of patented land may demand a search warrant unless authorities are in 'hot' pursuit of a criminal.)

#### Discovery Posts

For a mining claim on federal public domain to be valid against claims from all others and satisfy federal law, it must include a discovery, and the point of discovery must be marked or described in a manner that will permit another person to find it. Mining claims without valid discoveries are considered to be lawfully held against all other claims as long as the claimant is actively pursuing a discovery; however, they are considered 'unperfected' under federal law and could be declared null and void.

A claim may be staked by erecting only four corner-posts, but as soon as a discovery is made, that point

should be marked. Also, the certificate of location should be amended to describe the location of the discovery.

The BLM requires a discovery post for claims made on the federal public domain (regulations 43 CFR 3841.4-4, -5, and -6).

#### Assessment Work

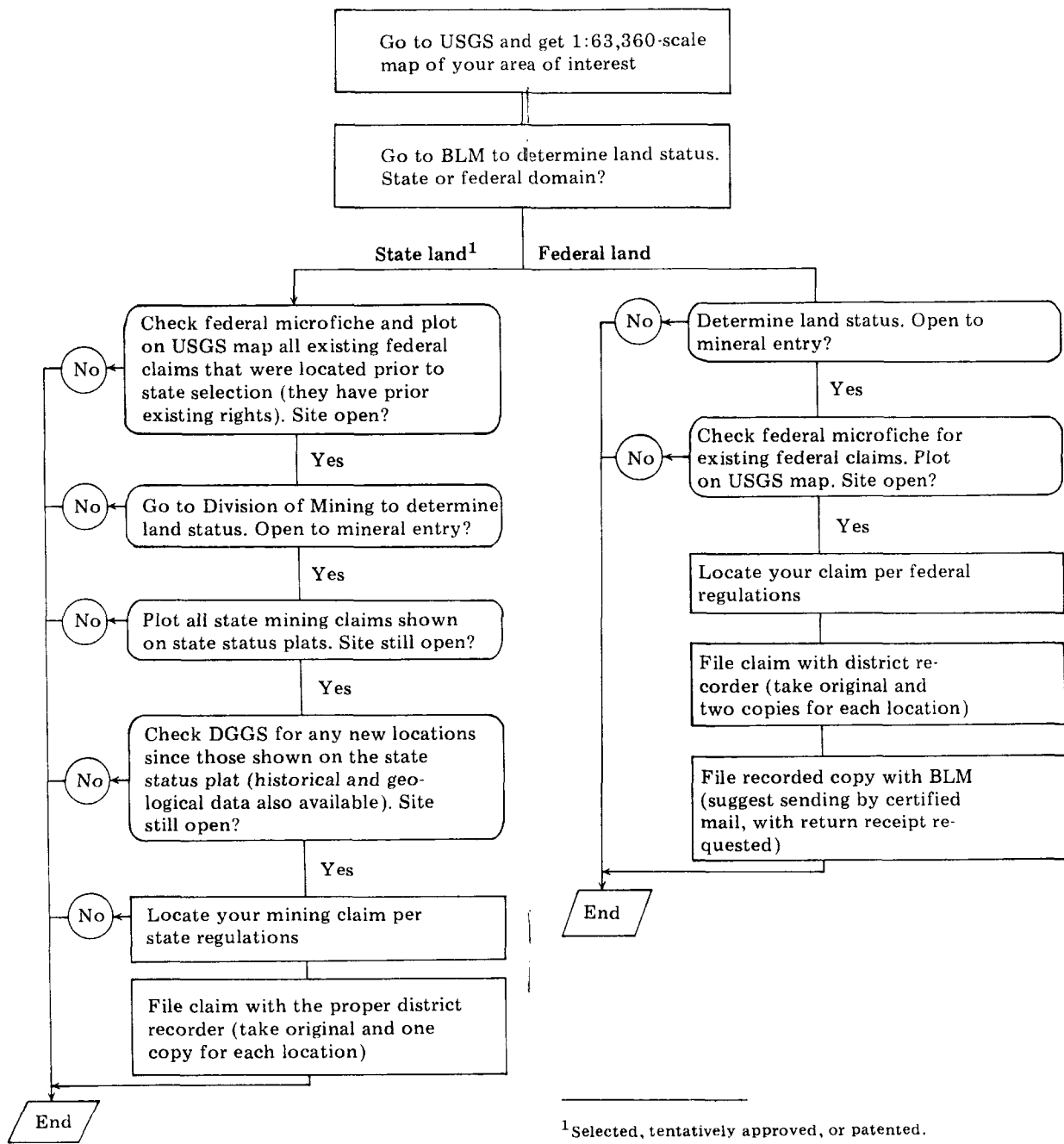
To legally hold unpatented federal claims after they are staked and recorded, \$100 worth of assessment work must be done on each claim during each assessment-work year (for association placer claims, \$100 work is required for each 20-acre increment). The work must be done to improve the claim or benefit it toward the eventual mining or extraction of minerals. Merely cutting brush year after year or annually repairing old buildings is not construed in the legal sense as properly benefitting the claim. For a group of claims that are contiguous, the assessment work may be done on one claim. Assessment work includes wages for personnel but does not include the costs of their transportation to or from the claim; it may include costs of tools and equipment, depending on whether they are meant to directly benefit mining of the claim.

The law permits geological, geophysical, and geochemical work on claims to be considered as assessment work under certain circumstances and when done by qualified personnel. To qualify, geophysical surveys must be made on the ground (aerial surveys are not allowed) and must be made by qualified experts using recognized standard instruments and equipment. A detailed report must be filed in the proper recording office stating: a) the location of the work in relation to the discovery point and claim boundaries; b) the nature, extent, and cost of the survey, c) the basic findings of the survey, and d) the name, address, and professional background of personnel doing the work. Such surveys may not be applied as labor for more than 2 consecutive years or for more than a total of 5 years on any one claim. No survey may be applied that is repetitive of a previously allowed survey.

As with claim-location certificates, assessment-work affidavits must be filed for record in the recording district in which the claim is located. The end of the annual assessment-work year is September 1 at noon. Assessment work is not required for the year during which the claim is staked.

If the assessment-work affidavit is recorded within 90

### STEPS FOR CLAIM STAKING



<sup>1</sup> Selected, tentatively approved, or patented.

days of the end of the assessment-work year (December 1), it will serve as prima facie evidence that the work was done. If it is recorded later than this time (or not at all), the burden of proof will be on the claimholder to prove that he did the work.

A copy of the assessment-work affidavit must be filed with the BLM on or before December 30 of each year or the claim will be deemed abandoned.

If no assessment work is filed, the original staker may then relocate the claim as though it had never been located—assuming, of course, that the land is still open to mineral entry.

A properly prepared assessment-work affidavit should contain: a) the name and location of the claim and the name of the owner(s) of the claim, b) a statement of the amount of work and kind of work performed, c) the actual value of the work, d) the dates when the work was done, e) the assessment year for which the work was done, and f) the circumstances under which the work was done if performed by somebody other than the owner.

The affidavit must be sworn to before a notary public or postmaster before recording it to make it legal. If no notary public or postmaster is available, the person doing the assessment work may certify his affidavit 'under penalty of perjury.' The certification must state the date and place of its execution, the fact that no notary public or other public or other official empowered to administer oaths is available, and the following statement, 'I certify under penalty of perjury that the foregoing is true and accurate.'

#### Tunnel Sites

The proprietor of a mining tunnel may acquire a possessory right to any blind lodes cut or discovered by such tunnel not previously known to exist. The right is for 1,500 feet on each side of the tunnel for 3,000 feet from the face or commencement of the tunnel. The tunnel site would be for a block of ground 3,000 feet by 3,000 feet.

If the tunnel work is discontinued for 6 months, it is considered abandoned.

Lode claims can be filed from the discovery of blind lodes.

#### Millsites

Sites may be acquired for the erection of a mill or for other methods of treatment or disposal of ore or waste in connection with the mining operation. A millsite must be on nonmineral land either adjacent or noncontiguous to a mining claim, but must not be larger than 5 acres. It may be included in an application for a patent on the claims it serves.

#### Timber

A law<sup>4</sup> passed in 1955 changed certain aspects of the basic mining law of 1872 with respect to surface rights on claims. Public Law 167 guarantees access by federal agencies for management or sale of timber or other surface resources on unpatented claims if the access or sale does not interfere with mining operations and provides a procedure for clearing up false or unsupported mining claims on federal land. If timber is sold by the U.S. government from an unpatented claim and if the locator later needs more timber for his mining operations, the law states that he shall have timber rights from the nearest source that is ready for harvesting. This law cannot prevent legitimate claims from being patented or interfere with the surface rights of patented claims.

#### Patents

Application for patent may be filed with the BLM after \$500 worth of approved work has been completed on a claim. The work may be completed and application made as soon as the claim holder wishes. The claimholder will be required to prove that the claim has a valid discovery and that he has clear title to the claim.

Patenting consists of actual purchase of the ground. In addition, the applicant must bear the expense of the survey of his property by a deputy U.S. mineral surveyor. The cost of the patent survey hinges on many factors and may vary considerably, depending on the area and amount of work involved in completing the job.

Most surface rights are acquired with patent. Assessment work is not required on a patented claim.

If the claims are not recommended for patent by

<sup>4</sup>Public law 167, July 23, 1955, U.S. Statutes at large: U.S. Government Printing Office, Washington, DC, p. 367.



BLM, the claims are considered null and void.

Details of the patenting procedure are explained in a BLM publication cited at the end of this brochure.

### STAKING CLAIMS ON STATE LAND

In accordance with legislation that granted statehood to Alaska, the state was allowed to select unappropriated land from the federal public domain. State laws and regulations that provide for acquiring rights to mineral deposits on state domain generally follow those procedures established by federal law and 'salable' minerals is identical to those of the federal government (p. 1).

A flow sheet depicting the staking and recording operations is shown in the center section.

#### Special Mining and Prospecting Situations

Offshore prospecting permits and leases are administered by the state for prospecting and mining on offshore tidal and submerged lands.

The state also controls all water rights and the beds of so-called navigable streams in Alaska. The latter are subject to mineral location under state law, but the prospector is cautioned that preexisting claims that include parts of navigable river bottoms remain valid against later claims, and that determination of navigable status has become a matter for the courts in many cases. A miner should not simply decide that a particular stream is navigable and try to stake bottom claims.

Unpatented federal claims on state-selected lands may continue to be administered as federal claims. If the location date precedes selection of the lands by the state, the claimant may a) file with the BLM and have the claim administered under federal law, or b) file with the state (DNR) Division of Mining and have the claim administered by that agency. Only state claims may be located on state-selected, tentatively approved (T.A.'d), or state patented lands. Locations made on lands selected by the state prior to the state's receipt of T.A. for the selection are made at the locator's risk; if the tentatively selected land on which his claim is located is not subsequently transferred to the state, the claim may be declared null and void and in trespass. State claims on selected lands are subject to any provisions of the T.A. and to any land classification by the state. In short, the miner should contact the BLM to see if he remains under federal

jurisdiction or if he will be required to comply with state regulations.

Information on these and other special situations is available from DNR information-offices personnel and in the booklet, 'Obtaining and Holding a Mining Claim in Alaska,' published by the state Division of Mining.

#### State Land Withdrawals

Under certain circumstances, the state may close parcels of land that it controls to mineral entry. These withdrawals take several forms. The prospector should check with a state (DNR) Division of Land and Water Management office before staking claims on state land. A claim staked on state land withdrawn from mineral entry will be declared null and void by the Department of Natural Resources. The locator may be subject to civil and criminal penalties.

#### Discovery

On state land, prospecting sites may be staked before a discovery is made. Discovery is essential for a state mining claim. Therefore, if a discovery has not been made but the potential exists, the locator on state land should stake a prospecting site rather than a mining claim. These give a prospector prediscovery protection where further work is required to make a discovery. A prospecting site can be up to 160 acres (quarter section), is permitted for 1 year, and is filed with a different form (see Location Notices, p. 15). Renewal after the first year is possible but not easy (state regulation 11 AAC 86.430).

#### Lode and Placer Claims

According to Alaska state law, lode and placer claims are not differentiated; only the term 'mining claim' is used.

A mining claim may not exceed 1,320 by 1,320 feet, or 40 acres. Lines must run north-south and east-west, making the boundaries 'vertical' and 'horizontal' on a map. On state land—unlike federal land—there are no extralateral rights (p. 5) and no association claims (p. 4).

Any number of claims may be staked by a U.S. citizen of at least 19 years of age or by an alien at least 19 years of age if his country gives similar staking privileges to U.S. citizens.

### Leasehold Locations

Staking on some state lands is restricted to 'leasehold locations' instead of 'mining claims.' Leasehold locations are required in cases where there is another interest in the state land (such as an oil and gas lease or a prior sale of the surface) or where special attention is required to protect other surface values.

Requirements for leasehold locations are basically similar to those for mining claims; the holder of a leasehold location can prospect and develop his mineral deposit the same as a mining claimant, but he may not remove minerals for sale until he has been issued a mining lease from the Department of Natural Resources. As of the date of this publication, the mining lease does not require royalty payments.

### Staking Posts

Staking-post requirements are identical with federal regulations (p. 5).

### Discovery Posts

Discovery posts are not required for claims on state-managed land. However, a discovery is required, and the claimant could be required to show his discovery.

### Filing with the State

Record the properly prepared certificate with the State Recording Office in the recording district in which your claim is located. A state mining claim will be considered abandoned and open to staking by others unless it is recorded with the correct district recording office within 90 days after the date of posting the location notice. The recorder's office will send copies of the recorded certificate to the Division of Mining and the Division of Geological and Geophysical Surveys.

### Assessment Work

'Assessment work' for claims or leasehold locations on state land is basically the same as for claims on the federal domain (p. 7) except that labor must be performed at an annual rate of \$200 per claim. Excess work up to \$800 per claim may be applied against the labor

required in the subsequent years (up to 4 years). For a definitive description of acceptable assessment work on state locations, refer to state regulation 11 AAC 86.220, Annual labor. Before beginning assessment work, the miner must submit a State of Alaska Annual Placer Application or a lode application to any Division of Mining office.

### Millsites

A special use permit and lease is required.

### Patents

Mining claims on state lands cannot be patented.

### Production License

A claimholder is required by Alaska Statute to have a production license before commercial production begins. Production license forms (DNR 10-1109) are available from the Division of Mining and the Division of Land and Water Management. The license must be accompanied by a nonrefundable \$20 application fee.

### Tunnel Site

Not available on state land.

## LOCATION NOTICES

Federal claims may be filed on any of several forms available from various commercial printing firms throughout the state for a nominal fee. It is extremely important that the location notice contain a precise and accurate description of how the claim is situated with respect to natural and manmade points on a topographic map and to other claims in the vicinity. (Otherwise, a condition called 'floating claims' can arise, where through vague description a given claim could exist anywhere over a large area; this often leads to confusion and accidental overstaking.) Inch-to-the-mile topographic maps (or photocopies) correctly showing claim position should be included when filing any state or federal claim, although a detailed sketch map that shows township, range, section, and meridian will do.

Since December 31, 1983, you are required to use

DNR forms for filing and recording claims and prospecting sites on state land. These forms, available at most DNR offices, are:

.Claim-location-notice certificate<sup>5</sup> (DNR form 10-162), and

.State prospecting-site certificate (DNR form 10-163).

These forms are designed so that, as a convenience to the miner, they may also be used as location notices to be posted on the claim or site. (However, any form containing the required information may be used for the location notice.)

#### OTHER SOURCES OF INFORMATION

Alaska Statutes (AS) and Alaska Administrative Codes (AAC) are kept at many libraries and state offices.

'Handbook of mineral law,' by Terry S. Maley (3rd ed., revised 1983, Mineral Land Publications, Boise, 711 p.) contains an extensive explanation of federal mining law, both statutory and cases, as well as some information on state laws.

'Guide for obtaining and holding a mining claim on state land' was released in October 1983 by the Alaska Division of Minerals and Energy Management (superseded by the Division of Mining and the Division of Energy Management in 1984), and is available at any of their offices.

'Locatable mineral regulations and statutes' (released June 1983), a collection of Alaskan mining laws without any commentary, is also available at Division of Mining.

Although 'Mining laws applicable in Alaska,' the Division of Geological and Geophysical Surveys Information Circular 14, is a briefer compilation of mining statutes and regulations, it does include important excerpts from both state and federal mining law. It is available at all DGGs offices (p. i) and at the Division of Mining and the Bureau of Land Management.

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<sup>5</sup>The form for posting on the claim post is called a 'location notice' and the form for filing and recording is called a 'certificate of location.' The information they require is very similar and on mandatory DNR form 10-162 the two are combined. For federal posting, filing, and recording any form or even a handwritten draft is acceptable as long as it is legible and contains the proper information.

'Permit guidelines for the mineral industry in Alaska,' published in January 1983 by the Office of Mineral Development (OMD) of the Alaska Department of Commerce and Economic Development, explains federal and state permits for virtually every kind of mining project in Alaska. It contains the legal authority for each permit requirement, the respective agencies, and other helpful information in an easily understood format. Copies are available at the OMD office in Fairbanks (675 - 7th Ave., 99701).

'Guide to preparation of mineral patent applications,' revised February 1983, is a complete explanation of procedures for patenting federal mining claims; it is available at BLM offices.