



## Fact Sheet: Upland Mining Leasehold Location

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### Definition of an Upland Mining Leasehold Location

Certain areas of Alaska have been designated to be available for mining only under an upland mining lease. These areas have been so designated because of circumstances that might create a conflict between other surface uses and mining, such as non-state surface ownership or environmental issues. Many areas have been designated for mining only under lease through the issuing of leasehold location orders. These orders are labeled on Alaska Mapper as LLO and a number, such as LLO 19. In addition, any land that is a municipal entitlement, that is land where the surface is owned by a borough or municipality, is a leasehold location under 11 AAC 86.135(b). Municipal entitlements can be viewed on Alaska Mapper, but they are not shown as LLOs.

Leasehold locations are staked in the same manner as a regular state mining claim (See Fact Sheets for MTRSC Locations (New Mining Locations), Staking Requirements for mineral Locations on State Land, and Mineral Locations (Claims) and the Rights Acquired). However, when a person stakes a new location in a leasehold location area the location is not a mining claim, but a leasehold location. The leasehold location must be converted to an upland mining lease before mining begins. When a leasehold location is staked the Mining Section will contact the locator to inform them of the status of their location, and the need to convert the location to a lease prior to mining. In areas that are not restricted to mining under lease, locators may convert their mining claims to leases if they wish.

### Will there be special stipulations in the lease?

Leasehold location areas are established because of potential conflict between mining activities and other surface uses. The purpose of the leasehold location is to allow stipulations to be written into the mining lease in order to avoid or minimize any problems due to conflicting surface uses. Depending on the nature of potentially conflicting surface uses, stipulations will likely be written into the lease to avoid or minimize these conflicts.

### What are the implications of non-state surface ownership?

Alaska Statute (AS) 38.05.125 mandates that where the State of Alaska owns the mineral rights, but another person or government entity owns the surface estate (often referred to as a “split estate”) the State and its assigns have the right to explore for and produce any minerals present. However, under AS 38.05.130 the rights reserved under AS 38.05.125 may not be exercised until the State or its assigns have made provisions to fully compensate the surface owner for all damages caused by exploration and mining activities.

One of the most common circumstances creating a split estate between the surface and mineral estates is municipal entitlements. Locators should always check state records, including Alaska Mapper, for any municipal entitlement where they intend to stake mineral locations.

### Is this a competitive leasing system?

No. The miner begins the leasing process by staking a “leasehold location” which includes the exclusive right to convert the location into a noncompetitive lease. There is no lease sale, or open bidding.

### What is the process for converting a leasehold location (or mining claim) to an upland mining lease?

The holder of a leasehold location may apply for a mining lease at any time, but must do so and be issued a lease prior to beginning any mining. Also, permits to conduct exploration activities will not be issued until a mining lease is issued.

The process begins when the locator requests an application form from the Division of Mining, Land and Water, Mining Section. The lease application requires a sworn statement by the applicant stating for each mining claim or leasehold location that:

- 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.

The Mining Section will review the application and all state records, and possibly other information regarding the leasehold location(s). There may also be a field examination and/or request for further information. The division will reject the application and the location will be void if, after examination of available information, the director determines that:

- 1) The requirements of AS 38.05.185 - 38.05.275 have not been met;
- 2) the land was not open to location when the mining claim or leasehold location was made; or
- 3) the land is closed to mining.

The Mining Section will publish a notice of the proposed mining lease in the newspaper of general circulation in the area of the location. The Mining Section will also send, by certified mail, a copy of that notice to the holders of apparent conflicting rights as shown on state land records. Holders of conflicting mineral rights have 30 days to assert their conflicting rights. If conflicting rights are asserted by another locator the division will reject the lease application and advise the parties to resolve the conflict. A person may file a new lease application after the conflict between the parties has been resolved.

#### **Rental or royalty payments**

The lessee will have to pay rent in the amount of \$1.03 per acre during the first five years of the lease, \$2.06 per acre during the second five years of the lease, and \$5.16 per acre after that. The age of the lease is the age of the oldest mining claim or leasehold location that is converted to the upland mining lease (11 AAC 86.313(c) & (d)). The rental shall be paid each year in advance, due on September 1 and must be paid by November 30<sup>th</sup>, and is subject to adjustment every 10 years. Labor is also required at the annual rate of \$100 for each partial or whole 40 acres of each mining lease. The Statement of Annual Labor is due on September 1 and must be recorded no later than November 30<sup>th</sup>. A production royalty of 3% of the net income will be required when the lease is put into production and is due on May 1<sup>st</sup> following the year in which production occurred.

If you have additional questions concerning upland mining leasing, please contact:

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