

STATE OF ALASKA
Department of Natural Resources
Division of Mining, Land and Water

**Director's Decision for:
Leasehold Location Order #23 and
Tangle Lakes Archaeological District Special Use Area Order: ADL 228296**

The purpose of this decision is to review and respond to comments received during the public comment period for Leasehold Location Order #23 and the Tangle Lakes Archaeological District Special Use Order ADL 228296 to determine if their adoption and implementation would be in the best interest of the State of Alaska.

Proposed Actions: To adopt a Leasehold Location Order and Special Land Use Order establishing special land management rules for approximately 235,000 acres of state land including the Tangle Lakes Archaeological District and some land located directly north and east. The land specifically affected by the proposed actions include all or portions of Township 20 South, Ranges 8, 9 East and Township 21 South, Ranges 7, 8, 9, 10 East, Fairbanks Meridian.

The affected area does not include the federally owned Delta Wild and Scenic River corridor which includes the Tangle Lake Campgrounds and Waysides. These will continue to be managed by BLM.

Leasehold Location Order No. 23:

- Will restrict mineral rights to protect cultural resources. The order would restrict mining to occur under a lease.

Proposed Special Use Area guidelines:

- Between May 18th and October 18th of each calendar year, limit the use of Off Highway Vehicles (OHV) to designated trails only.
- Between October 19th and May 17th, use of OHV will be unrestricted in areas where there is adequate snowfall and/or ground frost. Adequate snow cover and ground frost criteria are generally one foot of snow or six inches of ground frost.

Authority: This action is authorized pursuant to: 11AAC 96.010, AS 38.05.020, AS 38.05.185, AS 38.05.850; AS 41.21.020

Administrative Record: The Department of Natural Resources case files Leasehold Location Order #23 and Tangle Lakes Archaeological Special Land Use Order ADL 228296 comprise the administrative record used for the basis of this decision. Adjudication procedures specified by the division's policy and procedure manual were used.

Public Notice and Discussion: Public notice announcing the draft leasehold location order and special land use order was published in the Anchorage Daily News, the Fairbanks Daily News-Miner and the Copper Valley Bi-Weekly. The notice was also posted on the State's web page and in post offices located in Paxson, Glennallen and Copper Center. A public meeting was held by DNR in Paxson on August 15, 2002.

Comments were received from Mara Bacsujlaky for the Northern Alaska Environmental Center (NAEC) Bill Ellis, Alaska Earth Science (AES), John Schandelmeier, Chairman of the Paxson Fish and Game Advisory Committee (PF&GAC), The Alaska Center for the Environment (ACE), Alva Carlson, John P. Brandt, Dana Thomas, Danny L. Thomas, and the Ruth McHenry for the Copper Country Alliance. Approximately 30 people attended the August 15 public meeting.

There were only nine written comments received during the comment period. Five of those were, in general, opposed to mining and asked that the Special Use Area eliminate or restrict mining. In general, these comments overestimate the likelihood that significant mining will occur, the mining when it would occur, and they overestimate the impacts of mineral exploration and development.

Most of the land within these two orders is within the Tanana Basin Area Plan. The southwest corner is within the Cooper River Basin Area Plan. The Tanana Basin Area Plan was adopted by the Department of Natural Resources and the Department of Fish and Game in 1985 and updated in 1991. The Cooper River Basin Area Plan was adopted by the two departments in 1986. These two plans determined that the area should be opened for mining and provided management intent for the area. The Special Use Area does not change these decisions, only provides some additional guidelines for implementing the intent of the plans.

Some of the comments assume that a large mine is imminent in the area. This is not the case, and the Department does not make decisions as if it were the case. The minimum time between the announcement of a discovery of a major mineral find, and the beginning of production is roughly a decade. A typical time is much longer. In fact, there have only been six significant metal-mines approved in Alaska since statehood (Green's Creek, Red Dog, Fort Knox, True North, Illinois Creek, and Nixon Fork).

There has been no discovery in the area. While there have been some indications from remote geophysics that there may be some drilling targets in the area, there has not been significant drilling to that would determine whether a large ore body exists. The geophysics also indicates that the ore body is deep underground. This means that should a mine be permitted it is unlikely to be an underground mine, unlike Fort Knox, True North, or Red Dog. In addition, it means that exploration trenching is unlikely to be done, and that the development and permitting will occur under technology and laws that exist in the future. Any significant mining proposal will undergo a long and very public permit process.

The Special Use Area is more important for the public use that today occurs without a permit. It is this use that has the potential to occur without oversight and to unintentionally damage the archaeological and other public resources that make the area special to Alaskans. It is these uses that make it necessary to implement permit requirements for some generally authorized activities. In this way, the department can make sure that the activities occur in a way that protects the resources of the area.

During the next decade, the department does not envision much change from the present state. We expect recreation activities to increase, and we expect some level of mineral exploration. But both have been going on in the region for decades. There will be some changes, of course, but we do not expect a radically different future from the current present.

The next part of this Decision addresses specific comments received during the comment period. The following comments, concerns, recommendations and objections were received during the comment period:

- **Public Comment:** Opposed to mining in the SUA.

DNR Response: See response above. The decisions on the future of this area were made during the two planning processes described above. We are not revisiting those decisions at this time. In addition, it is useful to remember that the area was selected in part for its mineral values. The Department remains convinced that the numerous federal and state laws recognize and protect the areas archeological, recreation, cultural, and wildlife resources.

Recognizing the potential for impacts to archaeological resources in and directly adjacent to the archaeological district, DNR will adopt Leasehold Location Order #23, requiring that mining activity may only occur under an authorized lease. Mining under leasehold location is management tool used by DNR where land status is somewhat complicated or there is potential for conflicts between mining and surface resources.

Additionally, the department's Office of History and Archaeology will have a role in assessing any land use authorizations on state lands within the Denali Block, and especially within the SUA. SHPO will evaluate all proposed uses for impacts to the archaeological resources and develop appropriate stipulations to mitigate or minimize those impacts.

- **Public Comment:** SUA lacks guidance about provisions of permits authorizing access routes to be used in conjunction with mineral exploration.

DNR Response: The major purpose of the SUA is to require a permit for uses that are otherwise generally authorized on state land without a permit. If new access routes are proposed in the SUA, the appropriate method for them to be considered is the permitting process. We do not expect significant new access proposals in the area in the near future. The SUA will also create a higher level of management oversight to protect archeological resources within the boundaries set by this decision. Any OHV activity within this

SUA is subject to the conditions set forth in this decision, regardless of the use associated with that activity. Whether the authorized use is recreational in nature, or is in support of mining exploration activities, if it occurs within the SUA it is subject to these use restrictions. Other land use activity taking place within this SUA, or on other state lands not included within this SUA, will be managed consistent with existing departmental land use plans and appropriate state laws and agency regulations. Any access proposals that are related to mining exploration or development proposals will be handled under authority of the mining permitting process.

- **Public Comment:** SUA fails to set standards for protecting the Denali Block's archaeological resources, recreation, wildlife habitat and aesthetic resources from adverse impacts resulting from mineral exploration and OHV use.

DNR Response: The standards are in state law. The purpose of the SUA is to require a permit for generally authorized activities so that the department has the ability to implement the standards of the law. That is, if activities occur without a permit, the department (and the Office of History and Archaeology) does not get the opportunity to ensure that the activity respects the law and protects the cultural resources. By requiring a permit, the SUA allows the department that review, and allows the department to ensure that the law and resources are protected. The SUA does set standards for the use of OHV's within its boundary regardless of why the OHV's are being used. DNR believes these conditions of use, along with SHPO oversight, provide adequate margins of protection against resource damage from OHV use in the area. We also believe adequate safeguards exist within applicable land use plans, statutes, regulations, and policies to protect other

state lands against normal and reasonably foreseeable uses. Disposals of state interests, i.e., leases or land sales, and any major mineral development projects will undergo a comprehensive public review and written decision process.

- **Public Comment:** Incorporate guidelines requiring a public notice and 30-day comment period for any mineral exploration permit application submitted for the Denali Block.

DNR Response: DNR does not believe it is necessary or appropriate to establish new permit procedures specific for mining exploration. There are two divisions within the department issuing authorizations on state lands within the Denali Block area: Office of History and Archaeology; and the Division of Mining, Land, and Water. While land, water, mining, and archaeological permits may be processed and issued simultaneously to some degree, they are subject to distinctly different statutes and regulations. This SUA will not change or alter any of those authorities.

Many activities may currently take place on state lands which do not require a permit. Other than the use restrictions on OHV's included in this SUA, there will be no changes to the list of activities which are generally allowed on state land.

Permits are issued by DNR for short term, low impact uses of state land. A permit is revocable without cause and does NOT convey any interest in the land upon which the activity takes place.

Since a permit is not a disposal of interest, DNR does not notice its issuance in newspapers or other public notice venues. However, the department expects to work informally with local groups on these uses.

State law requires public notice for actions which constitute a disposal of interest in state lands, i.e., land leases, land sales, new material sites, and large mining projects. Disposals of interest require public notice in a major newspaper, local newspapers if available, and at local post offices. Since the Denali Block area is used by Alaskans living in the Anchorage as well as the Fairbanks area, notices for projects of this nature will be placed in newspapers from both cities.

- **Public Comment:** All mineral exploration activities should be helicopter-supported unless such activities can be conducted during a time when there is adequate ground frost/snow cover, or accessed by existing trails.

DNR Response: There was no demonstrable reason given for such a restriction. The current statutes and regulations covering access related uses and impacts to state land are adequate to manage public land in the Denali Block area for the broad scope of activities currently taking place there and those reasonable expected to take place in the future. There has been non-helicopter supported mineral exploration in the area for many years. We have had no complaints, and seen no impacts that justify requiring it now.

- **Public Comment:** Establish a Denali Block Citizens Advisory Committee and/or a recreational user advisory group.

DNR Response: DNR does not have statutory authority to create a Citizens Advisory Committee for the Denali Block area and has no funding to create or support such a group. . As outlined

above, DNR conducts its management actions in the open and according to public processes commensurate with the level of authority needed. Any and all interested parties are invited to participate and their concerns and questions are addressed. In the future, should any large projects (such as mining development) become a reality, a separate project process will be required that will involve the public in a substantial way. Finally, there are many places in Alaska that are loved by its citizens. This area is one of them. However, many other areas are much more likely to see significant change. This area is not expected to see a significant change in use over the future. Expanded procedures are not necessary here.

- **Public Comment:** Mines should be developed while minimizing the impacts resulting from increased traffic and noise and dust. Scenery and views along the Richardson and Denali Highways Should be protected by means of management guidelines consistent with the Denali Scenic Highway Study. With mining development, the Denali Highway should be better maintained and mines should be located out of sight of the Denali Highway.

DNR Response: At this time, mining related activity is exploratory in nature and more than likely will remain exploratory in nature for years (and even decades) to come. Any proposed mine development would be subject to extensive agency and public review process. All of the above would be taken into consideration and dealt with appropriately during the adjudication of a request for mine development.

- **Public Comment:** Mining reclamation standards should be incorporated into any mining related authorization.

DNR Response: Mining reclamation standards are a part of all mining related authorizations.

- **Public Comment:** Recommends area be closed to motorized recreation on a year round basis. Doing so would provide high quality recreational opportunities for those seeking natural quiet. This SUA does not resolve problems associated with conflicts between ATV and snow machine users and non-motorized users outside of the Archaeological District.

DNR Response: This area is currently open to motorized recreation under BLM management and there is a considerable amount of motorized recreation in the area. The public has not indicated an interest in prohibiting motorized recreation in this area.. Any future decision on prohibiting motorized recreation would require a more intense, management planning process. At the present time the department will manage the area's public lands according to the existing area land use plans covering the area and similar to how the BLM manages the land. Conflicts among users will be addressed on a case-by-case basis.

- **Public Comment:** A non-motorized designation would be in direct accordance with the management intent to protect and preserve resources from degradation with unrestricted OHV use and protect surface resources from new impacts associated with OHV use.

DNR Response: The restrictions on OHV use contained within this SUA are adequate to protect the archaeological resources present. Any other activities in the area under consideration for authorization by the department will undergo a review for impacts to the archaeological resources by the department's Office of History and Archaeology.

- **Public Comment:** Area proposed for Special Use Area designation doubles the size of the existing Tangle Lakes Archaeological District. Proposed area encompasses and restricts use of some heavily used recreation trails to the north and east of the boundaries of the existing archaeological district. The proposed SUA boundary will negatively impact mining claims that BLM has permitted OHV exploration use in the past.

DNR Response: The department agrees with claims that the proposed SUA far exceeds the boundaries of the Tangle Lakes Archaeological District. That representation is not consistent with our intent and the boundaries will be redrawn to more nearly match those of the existing archaeological district. There will be some deviations so that the legal description can be accurately depicted on maps and state land records. . However, those deviations will be minimal and should not further impinge upon use of the recreational trails in the northwest and eastern portions of the area. See attachment A for the revised boundary.

- **Public Comment:** Not confident about current standard of one foot of snow or six inches of ground frost as adequate protection of land and vegetation especially for those OHVs of the future that will be more powerful.

DNR Response: The management objective is to determine that the ground and substrate is adequately protected against repeated OHV (including snow machines) use in winter conditions. This management approach has been used for these lands by the BLM in past years with an acceptable degree of success. Similarly DNR has used this approach in managing the tundra on the North Slope oil fields. DNR will, using these standards for guidance, evaluate the condition of the land and make the determination at the beginning of the season and monitor those conditions throughout.

- **Public Comment:** Opposes guidelines restricting the use of off-road vehicles. Such restrictions impair the ability of the disabled to access the area.

DNR Response: These guidelines apply to all people using the SUA area and to any OHV traffic within the SUA area. The guidelines are already in place under BLM management. People having special needs for access due to disabilities should contact DNR about their needs. DNR will make reasonable accommodations where possible while staying within the intent of the OHV restrictions within the area.

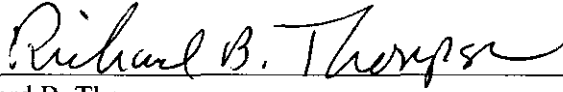
Recommendation: I have completed my review of the comments, recommendations and objections to the draft Tangle Lakes Archaeological District Special Use Area ADL 228296 and the draft Leasehold Location Order 23. I recommend adoption of draft Leasehold Location Order #23 as presented in the draft. The area being effected by the leasehold location order is depicted on *Attachment A*.

I also recommend adoption of the draft Special Use Area Order ADL 228296 with the following modification to the boundary:

The boundary of the area (*containing approximately 100,000 acres*) being affected by the special land use order is depicted on Attachment B and described as:

State land located north of the Denali Highway within Township 21 South, Ranges and, 8, and 9 East; and state land located within Sections 5, 6, 7, 8, 17, 18, 20, 29, 30, 31 and 32, Township 21

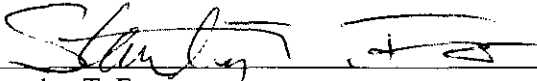
South, Range 10 East; Sections 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, and 33, Township 20 South, Range 8 East; and Sections 11, 12, 13, 14, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, Township 20 South, Range 9 East, Fairbanks Meridian.



Richard B. Thompson
Manager, Southcentral Region Land Office

12/3/02

Date

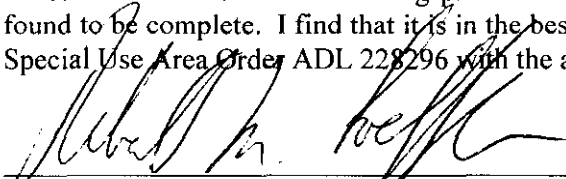


Stanley T. Foo
Mining Section Chief

12/4/02

Date

Director's Decision: This finding presented herein has been reviewed and considered. The case file has been found to be complete. I find that it is in the best interest of the state to adopt Leasehold Location Order No. 23 and Special Use Area Order ADL 228296 with the above-recommended modifications.



Robert Loeffler
Director, Division of Mining Land & Water

12/4/02

Date

corrected date } D.L.K. 12/16/02
12/24/02

Appeal Provision: A person affected by the decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received by 12/21/02 and may be mailed or delivered to Marty Rutherford, Acting Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918; or sent by electronic mail to dnr_appeals at dnr.state.ak.us. (Substitute @ for at in email address.) If no appeal is filed by that date, this decision goes into effect as a final order and decision on 1/6/03. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 is enclosed.