



### **Background:**

The performance of annual labor and recording of a statement or affidavit of annual labor are required for all mining claims, leasehold locations and mining leases under state law AS 38.05.210. During the labor year, or within 90 days of the close of the labor year (September 1<sup>st</sup>), the owner of the mining claim, leasehold location, or mining lease or other person having knowledge of the facts must record an affidavit describing the labor or improvements made during the annual labor year (including any labor in excess of the requirement for that year or cash payments).

If an affidavit of annual labor is not recorded timely within the recording district where the mining claim, leasehold location or lease is situated or does not set out the essential facts required under state regulation 11 AAC 86.220, the mining claim(s) and leasehold location(s) are subject to abandonment under state law AS 38.05.265 and mining lease will enter into default.

### **What is an Annual Labor Year?**

Except for locations on State-selected land (see below), the first labor year begins on **September 1<sup>st</sup> at noon**, following the location posting date or initiation of the lease. Thereafter, each **Annual Labor Year begins and ends at noon on September 1<sup>st</sup>**.

### **What are annual labor requirements for state mining claims, leasehold locations, and leases?**

Affidavits of Annual Labor become due on September 1<sup>st</sup> and must be recorded within 90 days in the recording district where the mining claims, leasehold locations or leases are situated. The minimum amount of labor that must be performed depends on the size of the mining location. For each traditional, fractional and ¼-¼ section MTRSC location, a minimum of \$100 worth of work is necessary. For each ¼ section MTRSC location, a minimum of \$400 worth of work is necessary. For mining leases, \$100 per partial or whole 40 acres is required.

### **What information must be included on the affidavit of annual labor?**

Under state regulation 11 AAC 86.220 the affidavit **must** be signed, dated, notarized, and recorded in the recording district where the mining claim, leasehold location or lease is located. The affidavit **MUST** contain the following essential facts:

- (1) the name or number of the mining claim, leasehold location, or mining lease;
- (2) every meridian, township, range, and section in which the location or locations are situated, and the recording district in which it is located;
- (3) the name and current mailing address of each owner;
- (4) the dates of performance of the labor and the character and value of the improvements made or labor performed, or the amount of cash payment made instead of annual labor; and
- (5) the value of excess work to be applied from previous years. (Please include the year in which the work was performed).

**To ensure that you include all of the essential facts, please use the State Annual Labor form and fill it out completely.** You may attach additional sheets if needed for any required information. An affidavit that does not set out the essential facts will be considered void under the state Abandonment Law AS 38.05.265.

### **What do I do with the affidavit once it is completed?**

After the affidavit is completed, signed, dated, and notarized, record the document in the recording district where the mining claim, leasehold location or lease is situated. The document may be recorded in person or mailed to the Recorders Office. **You must include a check or credit card authorization for the required recording fees.** To authorize the use of a credit card, please include your credit card information with instructions to “charge this credit card the appropriate amount to record the enclosed documents”. Please see the following State websites for Recording information: [www.dnr.alaska.gov/ssd/recoff/distlist.cfm](http://www.dnr.alaska.gov/ssd/recoff/distlist.cfm) (district list) [www.dnr.alaska.gov/ssd/recoff/fees\\_RO.cfm](http://www.dnr.alaska.gov/ssd/recoff/fees_RO.cfm) (for fees). **Failure to timely record the affidavit will constitute an abandonment of all rights acquired for the mining claim or leasehold location under the state Abandonment law AS 38.05.265.**

### **Can an affidavit of annual labor be amended?**

**Maybe.** When there are no errors in the essential facts, an affidavit may be amended within two years of the date that the affidavit was required to be recorded under state law AS 38.05.210. Any additional labor claimed on an amended affidavit, may not be used to fulfill labor requirements in subsequent years. An affidavit that does not accurately set out the essential facts required in 11 AAC 86.220 (above), is void and may not be amended.

### **How do I determine what my labor is worth?**

The value assigned to labor performed must be reasonable and appropriate to the type of work that was performed. For hand labor, the Division of Mining, Land and Water (DMLW), suggests the value of \$200 per laborer working a 10-hour day, but recognizes that wage variations may occur. The value of equipment utilized for mining or development purposes on the location or lease is equal to the current rental rates charged for that type of equipment.

### **Can I claim the cost of staking my location as annual labor on my affidavit?**

**No.** The cost of work involved in the staking and recording of your location is not considered as annual labor. Only the labor performed **after** the discovery, posting and recording of the location certificate may be considered.

### **Is the work I perform before the beginning of my first labor year acceptable as annual labor?**

Although no annual labor is required between the posting and recording of the location and the immediate September 1<sup>st</sup>, DMLW does recommend and accept annual labor affidavits for the first labor year so the amount may be credited towards annual labor requirements for the subsequent year(s). ***The first labor year affidavit of annual labor must be timely recorded in order to be used as credit in a later year.***

### **Can I claim the value of work that I perform in excess of the amount required?**

**Yes.** If more than the required minimum annual labor is performed in any one year, the excess value may be carried forward and applied towards labor requirements for up to four subsequent years. In order to receive credit for excess labor, the description and value of the labor must have been included on the affidavit filed for the year in which the excess work is performed. ***The affidavit must be timely recorded in order to apply the excess labor credit towards the annual labor requirement due.***

### **Do I need a permit before beginning annual labor?**

You are required to obtain a permit or an approved plan of operations from the Alaska Department of Natural Resources (ADNR), and any other applicable State or Federal agencies before conducting mining activities or mining site development that are not allowed as a Generally Allowed Use under state regulations 11 AAC 96.020 – 025. You may not store equipment on or transport equipment across state land to your mining claim, leasehold location, or lease until you have obtained a permit. Please consult the fact sheets for “*Generally Allowed Uses*” and “*Structures on Mining Locations*”. Note: Contact the Alaska Department of Fish & Game and Department of Environmental Conservation before any suction dredging activities.

### **What type of work qualifies as annual labor?**

To determine what labor or improvements qualify as annual labor, consider whether the costs or activities developed, benefited, or facilitated the extraction of ore from each location. See state regulation 11 AAC 86.220 (Annual Labor).

#### **Examples of qualifying labor and improvements are:**

- Prospecting work to develop and expand an established discovery.
- Costs directly associated with the production of ore.
- Reasonable value of the use of equipment for mining or development purposes on the location. Repairs of equipment used for prospecting, sampling, or production of minerals.
  - **NOTE:** *The equipment must have been on site at the location during the assessment year for repairs to be acceptable for annual labor, although the actual repairs may have been performed elsewhere.*
- Geochemical, geological, geophysical, or airborne surveys if conducted by qualified experts and verified by a detailed report filed in the recording district office in which the claim is located, as described under AS 38.05.240.
  - **NOTE:** *Airborne surveys may not be applied as labor for more than two consecutive years or for more than a total of five years on any one location, and each of those surveys must be non-repetitive.*
  - Environmental feasibility assessments may qualify if conducted by qualified experts.

#### **Examples of qualifying labor activities that require a permit include but are not limited to:**

- Drilling greater than 300', excavating, including ore extraction or other material.
- The cost of setting up a drill rig on a location.
- Development work towards an actual mine, such as shafts, tunnels, inclines, crosscuts and drifts, settling ponds and dams.
- Bringing water for direct mining or milling purposes.
- Clearing of brush, timber, debris, or overburden where necessary to facilitate the extraction or processing of minerals.
- Construction of trails, roads, or landing strips to provide access to claims.
- Construction costs for worker housing, mills and equipment storage buildings.
- ***REMINDER: Development and construction must be pre-approved in a plan of operation, and necessary for the development of the mineral deposit and only be used during periods of mining or development.***

### **What type of work does NOT qualify as annual labor?**

- Transportation of workers or equipment to or from the location does not qualify as annual labor.
- Watchman services for warding off “trespassers” or to prevent over-staking.
- Maintenance work such as brushing or marking the lines and replacing corner posts or location notices, is not considered annual labor. These are duties that State law imposes on the claimant in addition to the Annual Requirement.

### **Can I apply my annual labor work to adjacent mining claims?**

**Yes.** Annual labor work conducted on a claim or mining lease may be applied to all **adjacent** claims or leases that are owned by the same claim or lease holder(s) if the work developed or benefited all claims. State regulation 11 AAC 88.185 defines “adjacent” to mean touching or lying in close proximity. If the mining claims, leasehold locations or leases are not adjacent, separate affidavits must be recorded.

### **Can I make a cash payment instead of performing annual labor?**

**Yes.** The holder of a mining claim, leasehold location, or mining lease may make a cash-in-lieu payment to the State equal to the value of labor required (\$100 or \$400 per claim or \$100 per each partial or whole 40 acres for a lease). **Payment must be made in person or mailed (postmarked) by September 1<sup>st</sup>, during the Annual Labor year** and may be made for up to five consecutive years before labor must be performed again.

A cash-in-lieu payment will only be accepted for one labor year at a time. The cash payment must be described on the recorded affidavit of annual labor. DMLW recommends that locators record their affidavit on the same date of the payment.

If a miner fails to make a payment in lieu of labor before September 1<sup>st</sup> and there is no excess labor available from past years, the claim is abandoned effective September 1<sup>st</sup>. A locator may attempt to cure the abandonment by making a late cash payment, properly recording an affidavit of annual labor, and paying a penalty equal to the annual rent owed for the abandoned claim.

Under the state abandonment law, AS 38.05.265, a claim can only be reinstated if there are no overlapping locations. There is a 50 – 60 day waiting period prior for full reinstatement because under AS 38.05.195 and 11 AAC 86.215, a locator has 45 days from the date of posting a location notice in the field to record the location certificate and pay their first annual rental payment.

The reinstate waiting period begins **after** all obligations have been met.

### **What are the labor requirements for locations on State-selected land?**

Annual labor is not due on locations made on State-selected land until the State receives conveyance of the land from the federal government either through Tentative Approval (TA) or Patent, whichever occurs first under state regulation 11 AAC 86.115 for Locations on State-Selected Land. The first labor year begins at noon on the first September 1<sup>st</sup> after the federal government conveys the land.

### **What happens if I record my annual labor late?**

Late recording results in the abandonment of the claims under Alaska Statute 38.05.265. You may attempt to cure the abandonment by properly recording the annual labor affidavit and paying a penalty equal to the annual rent for the mining claim or leasehold location that was abandoned. The reinstate waiting period begins **after** all obligations have been met.

If another person has located a mining location that includes all or part of your location, your location **cannot** be cured. A locator of an abandoned location or a successor in interest may **not** relocate the location until **one year** after abandonment. Please consult the Fact Sheet on “*Abandonment of a Mining Location and Options Available Under the Law*” for more information.

### **For answers to questions not covered in the Fact Sheet please contact a Public Information Center:**

#### **Anchorage Public Information Center**

Department of Natural Resources  
Public Information Center  
550 West 7th Ave., Suite 1260  
Anchorage, Alaska 99501-3557  
Monday thru Friday / 10:00 AM to 5:00 PM  
(907) 269-8400 TDD: (907) 269-8411

#### **Fairbanks Public Information Center**

Department of Natural Resources  
Public Information Center  
3700 Airport Way,  
Fairbanks Alaska 99709-4699  
Monday thru Friday / 10:00 AM to 5:00 PM  
(907) 451-2705 TDD (907) 451-2770