

State of Alaska
DEPARTMENT OF NATURAL RESOURCES
FINAL FINDING OF THE COMMISSIONER
MINERAL ORDER # 1044
AS 38.05.185 (a)

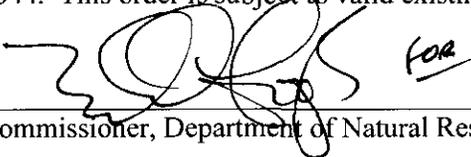
The Final Falls Creek Land Exchange Amended Report, Best Interest Finding and the Final Finding and Decision for the lease to Gustavus Electric were developed in accordance with AS 38.50.010-170 and AS 38.05.035(e) and 38.05.810(e). This mineral order will initially close approximately 1,034 acres of state land within the Falls Creek exchange area to new locatable mineral entry because mining activity would not be compatible with significant surface uses (AS 38.05.185(a) and AS 38.05.300(a)(2)). These state lands are located just east of Gustavus (see attached Figure 1.2). After the Alaska State Land Survey (ASLS) for the hydroelectric project is accepted by DNR, the mineral order will be reduced in size to apply just to the hydroelectric "project boundary," as defined by the FERC license and any materials sites which total approximately 200 acres. The Falls Creek hydroelectric project constitutes a significant surface use and the state is committed to take all reasonable actions necessary to preclude significant surface conflicts.

In addition, consistent with AS 38.05.185(a) and AS 38.05.300(a)(2), this mineral order closes to new locatable mineral entry approximately 1,040 acres of state land along the Chilkoot Trail that are also included in the exchange (Units A-G on Figure 1.3).

This closure was public noticed in accordance with AS 38.05.945. This order takes effect as soon as the mineral order is adopted. The attached Mineral Order and accompanying maps identify the area that is closed to mineral entry.

The Division of Mining, Land and Water requested that the subsurface estate of the land identified in the attached, be closed to mineral entry and location in accordance with AS 38.05.300 for the development of a utility, related infrastructure, access roads and the land exchange. Mining activity within the Falls Creek and Chilkoot Trail exchange parcels would be incompatible with the proposed surface uses on state land. To allow mineral location in the project area could create serious conflicts between surface and subsurface users.

Therefore it is my Final Finding, in accordance with AS 38.05.185(a), that the best interests of the state and its residents are served by this closure to entry under the locatable mineral and mining laws of the state of Alaska of the above areas, more particularly described in Mineral Order # 1044. This order is subject to valid existing rights and takes effect immediately.



Commissioner, Department of Natural Resources

2/28/06
Date

Appeal Provision:

See the attached letter from Dick Mylius, Director Division of Mining, Land and Water that contains appeal provisions that apply to these decisions.

State of Alaska
Department of Natural Resources
Division of Mining, Land, and Water
Mineral Order No. 1044
Closing State Land to Mineral Entry

I. Name: Falls Creek / Chilkoot Trail Land Exchange Areas

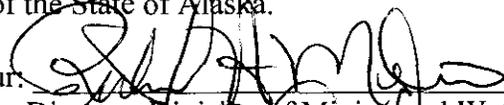
II. This mineral order is based upon the following:

- Final Finding of the Commissioner, Mineral Order # 1044
- Final Finding and Decision for the Falls Creek Hydroelectric Project lease authorization (ADL 107234), February 28, 2006
- Northern Southeast Area Plan, October, 2002
- Amended Report, Best Interest Finding, Falls Creek Land Exchange, February 28, 2006

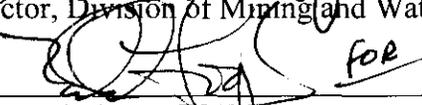
III.

<u>Legal Description</u>	<u>Gross Acres</u>	<u>Acquisition Authority</u>	<u>Classifications</u>
See attached maps	Initially 2,074 acres total when this order is adopted (Falls Creek = 1,034 acres, Chilkoot Trail = 1,040 acres) The Falls Creek portion of the order will be reduced to approximately 200 acres after the Alaska State Land Survey for the hydroelectric project is approved.	Falls Creek parcel: The Glacier Bay National Park Boundary Adjustment Act of 1998 (105 Pub. L. 3417; 112 State. 3002). Chilkoot Trail parcels: GS 837. All parcels: Land Exchange Report; Best Interest Finding, and Exchange Agreement (AS 38.50.010-170)	Chilkoot Trail units: Reserved Use Land (see Classification Order Amendment SE 01-002-A01). Falls Creek parcel: classified Wildlife Habitat Land and Water Resources Land

IV. Mineral Closing: This mineral order is subject to valid existing rights and is issued under the authority granted by AS 38.05.185 – AS 38.05.275 to the Department of Natural Resources. In accordance with AS 38.05.185(a), I find that the best interests of the State of Alaska and its residents are served by closure of the land described in this mineral closing order to entry under the mineral location and mining laws of the State of Alaska. The above-described lands are hereby closed to entry under the locatable mineral and mining laws of the State of Alaska.

Concur: 
 Director, Division of Mining and Water Management

2/28/06
 Date

Approved:  *for*
 Commissioner, DNR

2/28/06
 Date

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
MINERAL ORDER #1044**

I. Legal description / geographic location

See section III below and attached Figures 1.2 and 1.3.

II. Commissioner's finding and written documentation

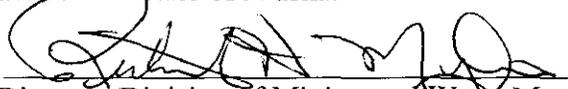
This mineral order is based upon the attached Commissioner's Final Finding and the written documentation contained in the Final Finding and Decision for the Falls Creek hydroelectric lease (ADL 107234) issued on February 28, 2006 and the Amended Report, Best Interest Finding, Falls Creek Land Exchange, (ADL 107326) also issued on February 28, 2006.

III. Legal description and acreage

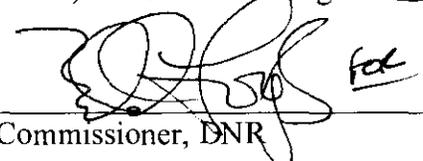
Upon adoption of this order, 1,034 acres acquired by the State of Alaska under the Glacier Bay National Park Boundary Adjustment Act of 1998 will be closed to new mineral entry. After an Alaska State Land Survey (ASLS) for the project is approved, the acreage the order applies to will be reduced to apply only to the "project boundary" as defined by Article 202 in the Federal Energy Regulatory Commission Order (October 29, 2004) issuing a license to Gustavus Electric for the Falls Creek Hydroelectric Project (FERC Project Number 11659-002). The "project boundary" includes the following facilities and land within 200 feet of these facilities: access road, diversion dam, intake facilities, water conveyance pipelines and powerhouse. The mineral closing order will also remain in place for any material site(s) that are identified for the project. See the attached map for the Mineral Order boundaries before and after the acceptance of the ASLS. A separate mineral order is not required after the ASLS is approved and the area closed to mineral entry is reduced in size.

In addition, the 1,040 acres of lands subject to the land exchange along the Chilkoot Trail (Units A-G, see attached Figure 1.3) are closed to new mineral entry upon adoption of this order.

IV. This order is subject to valid existing rights and issued under the authority granted by AS 38.05.185 - 38.05.275 to the Department of Natural Resources. The above described lands are hereby closed to entry under the locatable mineral and mining laws of the State of Alaska.

Concur: 
Director, Division of Mining and Water Management

2/28/06
Date

Approved: 
Commissioner, DNR

2/28/06
Date