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# SUBSURFACE RESOURCES

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## Goals

### • OPPORTUNITIES FOR MINERAL EXPLORATION & DEVELOPMENT

Provide opportunities through state land management for exploration and development of both private and public mineral resources to help ensure a stable national minerals supply and minerals development opportunities.

### ECONOMIC OPPORTUNITIES

Provide economic opportunities and stability by managing the state tidelands for the economically efficient and environmentally sound:

- transfer of minerals from uplands to transport vessels;
- disposal of tailings;
- development of tidelands and submerged lands mining sites; and,
- siting of infrastructure to support development of mineral resources.

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## Mineral Development Guidelines

### A. MINERAL EXPLORATION

Recognized exploration methods for locatable minerals will be allowed on all state lands except those specifically closed to prospecting and will be subject to the conditions of a land use permit. DNR may determine that some traditional forms of access will not be allowed in specific areas to avoid resource damage.

### B. OPEN TO MINERAL ENTRY

All state lands that are open to mineral entry are multiple use areas where mineral development will be accommodated and encouraged. Where an area is open to mineral entry, a miner has the right to stake a claim regardless of the surface use designation or classification. Any adverse effects of mining on surface resources or uses will be managed through compliance with state laws and regulations and the management intent and guidelines of this plan.

### **C. RECLAMATION OF MINED LAND**

Land use permits and plans of operation for mineral development will specify measures needed to return the land to a useful state. Determination of the specific measures to be taken will be done in consultation with the affected agencies. Specific measures may include storage and reuse of topsoil; disposal of overburden; regrading of tailings and revegetation; reestablishment of natural (not necessarily original) contours; reestablishment of a natural drainage system; long-term erosion control measures; and removal of equipment, improvements, and other man-made items. In crucial habitat areas, annual reclamation will be required concurrent with mining. Reclamation will be required as necessary to restore productive fish and wildlife habitat and prevent hazards to navigation.

### **D. MINING IN FISH HABITAT**

When DNR issues a permit for mining in or adjacent to fish habitat, the land manager will require as a condition of the permit any necessary measures, such as levees, berms, seasonal restrictions, and settling ponds, that will allow the operation to meet water quality standards, and statutes and regulations governing the protection of fish. Mining in fish habitat will require a permit from DEC and ADF&G. ADF&G permits, however, are not required in marine waters and estuaries outside the mouths of specified anadromous fish streams. See also guideline B-2, *Mining in Crucial Habitats*, page 2-13.

### **E. BONDING**

Whether or not a performance bond will be required for a mining operation will be decided after consultation with other agencies. However, in crucial fish and wildlife habitats a bond of not less than \$5,000 will be required for any permitted, tideland mining operation.

### **F. OFFSHORE PROSPECTING PERMITS (OPP)**

Under AS 38.05.250 an exclusive right to prospect for deposits of minerals offshore may be granted through a permit issued by DNR. DNR determines what areas will be opened for permits. No areas around Prince of Wales Island are currently open for permits. If workable mineral deposits are found offshore, the permittee must apply for a lease in order to develop the mineral deposit. Crucial habitat and harvest areas are areas of significant surface use of or by fish. The Alaska Department of Fish and Game has stated that it has initially determined mining in crucial estuarine areas to be nonconforming use under the ACMP. ACMP procedures will be used to determine whether mining can be made a conforming use and, if mitigation is possible, the appropriate mitigating measures needed to protect fish and wildlife resource values.

## **G. REVIEW PROCEDURES FOR OFFSHORE PROSPECTING PERMIT APPLICATIONS**

Should any statute or regulation be adopted which modifies or changes the following procedures, this section will be automatically amended to reflect those changes. Regardless of procedural changes, effective early review by ADF&G will be provided.

An offshore prospecting permit decision will be subject to the following procedures:

1. DNR will notify ADF&G and other appropriate agencies of its intent to open specific areas to offshore prospecting and provide them at least 60 days to provide recommendations on areas that should be closed to protect significant surface use by fish and wildlife resources as provided by 11 AAC 86.500(f). This period may be extended for large areas over 100,000 acres or for simultaneous review of several openings. The period may be reduced to 30 days if the opening will occur in an area for which an area plan that includes an evaluation of offshore habitats has been completed.
2. DNR will consider recommendations for closure and subsequently conduct a best interest finding review for the disposal of interest involved in issuance of offshore prospecting permits. A draft consistency determination will be circulated for agency and public review along with a preliminary best interest finding. DNR will coordinate the consistency review; however, OMB must concur in the final determination. Conflicts between the resource agencies will be resolved through the procedures described in 6 AAC 50.1001-.190.
3. A prospecting permit grants exclusive property rights to explore the permit area for locatable minerals. All prospecting permittees must submit a plan of operations for approval by DNR before undertaking any exploration in the permit area which involves disturbance or alteration of habitat. OMB will coordinate a consistency review of the plan of operations, along with permits or approvals from other state agencies or federal agencies. The review will determine the appropriate operating restrictions necessary to protect fish and wildlife resource values.
4. The offshore prospecting permit grants exclusive property rights to convert the permit to a lease if minerals are found, subject to a DNR determination that development of the find is workable in an economically feasible manner. DNR will coordinate a consistency determination on the conversion of the prospecting permit to a lease; however, OMB must concur with the final determination.
5. All leaseholders must submit a plan of operations prior to mine development and may submit plans of operation on an annual or phased basis. OMB will coordinate a consistency review of the plan of operations with the review of all other necessary state or federal permits. The review will determine appropriate operating restrictions necessary to protect fish and wildlife resource values.

## **Application of Mineral Closures & the Locatable Leasing Program**

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The decision to apply mineral closures or locatable mineral leasing was made by the Commissioner within the parameters set by the Alaska Statutes. AS 38.05.185(a) requires that the commissioner determine that mining is incompatible with a significant surface use before an area can be closed to mining. The same section of the statutes requires that the commissioner determine that a potential use conflict exists before requiring that development of locatable minerals be conducted only under a lease. The fact that an area is closed to new mineral entry will not be cause for denying access across state land. Mineral closures and leasehold location orders do not affect valid existing closures.

### **A. LAND TO BE CLOSED TO NEW MINERAL ENTRY**

Using the criteria established in AS 38.05.185(a), DNR generally finds mining to be incompatible with the types of surface uses listed below and will close the area to mineral entry at the specified times in the decision making process. However, each situation will be evaluated separately when mineral orders are prepared and a determination made that the requirements of AS 38.05.185(a) have been met.

- 1. Areas Scheduled for Disposal.** Areas scheduled for land disposal will be closed to mining and mineral location at the end of the first year of the Land Availability Determination System (LADS) process (that is, approximately two years before the anticipated land sale).
- 2. Land Proposed for Exchange.** Lands proposed for exchange or trade will be closed to mineral entry and location at the time a preliminary agreement to exchange the land is reached. No lands are currently proposed for land exchange by this plan.
- 3. Land to be Transferred to Another Public Agency.** Lands reserved for transfer to another public agency for development of a public facility, or reserved as a future townsite will be closed to mineral entry and location at the time the area is classified "reserved use."
- 4. State Parks.** Mining would also conflict with any state land designated as units of the state park system. These areas would be closed to mineral entry by the legislature if the legislature establishes new park units. Existing units of the Alaska State Park system are closed to new mineral entry. The plan does not propose any new units of the state park system.

**5. Anadromous Fish Habitat.** Mining would also be in conflict with certain anadromous fish spawning and rearing habitats. To ensure that any proposed mineral development in crucial habitat is reviewed under the offshore prospecting system, these areas are closed to the staking of new mining claims. The areas were closed to new mineral entry when this plan was first adopted in 1985. The state owns the land under all navigable waterbodies, including under all streams on state-owned land, and tidelands and submerged lands. The majority of state-owned uplands and tidelands remain open to new mineral entry.

Under state mining laws a mining claim can be filed on the tidelands. A provision of state mining regulation, however, is that a mining claim can extend into tidelands and submerged lands only if "two of the corners are on or above the line of mean high tide" (11 AAC 86.135(c)). In Prince of Wales Island this provision allows for mining claims to be staked adjacent to the shore on any state tidelands and submerged lands, regardless of who the upland owner is. As a mining claim may not exceed 1,320 feet in its longest dimension, these claims cannot extend more than 1,320 feet seaward from mean high tide.

## **B. LEASEHOLD LOCATION AREAS**

Using the criteria established in AS 38.05.185, DNR may determine that on certain lands mining will be allowed only under leases issued under AS 38.05.205. However, no leasehold location areas are proposed by this plan.

Requiring that locatable mineral developments occur under a lease is a more flexible management tool than mineral closures. Therefore:

1. Mineral leasing is preferred over mineral closure as a management option to resolve conflicts between other significant resources and mining of locatable minerals.
2. Mineral leasing should be used only where the Commissioner determines the tangible and intangible resource values to be protected are significant and other management options cannot adequately resolve potential conflicts between those resources and mining (see AS 38.05.185(a)), or where the state does not own the land in full fee estate or has previously disposed of other interests in the land.
3. The area where locatable minerals will be developed under lease will be limited to the minimum necessary to protect the continued productivity and availability of the resources being protected.
4. Concurrent with the designation of an area as being open only to locatable mineral entry under lease, DNR, after consultation with ADF&G and DEC, will identify the other resources needing protection and state the general nature of stipulations to be used in leases to protect those other resources.

**C. OIL & GAS & OTHER ENERGY RESOURCES**

The plan defers any decisions regarding leasing for oil and gas and other energy resources to DNR's existing leasing processes. No lease sales are proposed due to the relatively low potential for oil and gas discoveries and the lack of any other significant known leasable minerals on state land on Prince of Wales Island.

**D. OTHER GUIDELINES AFFECTING SUBSURFACE RESOURCES**

Guidelines in the Forestry section of this chapter that have "RTF" or "RTS" in the title apply to mineral transfer facilities and sites. Other relevant guidelines in the following sections of this chapter will also apply to the management of subsurface resources.

- Coordination and Public Notice
- Fish and Wildlife Habitat and Harvest Areas
- Forestry
- Materials
- Public and Private Access
- Recreation, Tourism, and Scenic Resources
- Settlement
- Shorelines and Stream Corridors