

**DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF MINING, LAND, AND WATER**

**MINERAL ORDER NO. 1118**

\_\_\_\_\_ Closing Lands to Mineral Entry    \_\_\_X\_\_\_ Opening Lands to Mineral Entry

I. Name: Partial Reopening of Lands Conveyed to the University of Alaska (AS 14.40.365).

II. Reason for Mineral Order: This mineral order is based on the attached Commissioner's Administrative Finding and the 2009 decision (Case No. 1JU-07-558 CI) of the Alaska Supreme Court that the conveyance of state land to the University of Alaska under the legislation CCS HB 130(efd fld S) FSS 2005 was invalid.

III. Authority: AS 38.05.185, AS 38.05.300(b), and the Order of the Superior Court (January 12, 2010) implementing the decision rendered by the Alaska Supreme Court (case 1JU-07-558 CI).


III. Location and Legal Description: Lands to be opened under this order include parcels of varying size situated in Southeast, Southcentral, and Interior Alaska, totaling approximately 160,436 acres. These parcels are listed in Table 1 under the column 'Areas to be Opened' and their location is depicted in the report, 'Areas to be Opened to Mineral Entry', also attached.

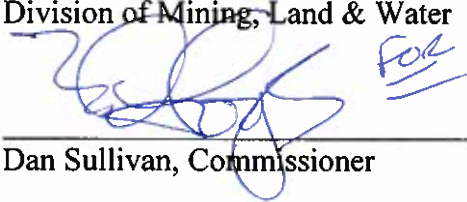
IV. This order supersedes portions of Mineral Order 1045 and opens to mineral entry parcels identified in this report.

V. Mineral Opening: 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 the opening of the lands described in this mineral order to entry under the mineral location and mining laws of the State of Alaska. The above-described lands are hereby opened to entry under the locatable mineral and mining laws of the State of Alaska.

VI. Parcels to Remain Closed to Mineral Entry. Parcels closed under MO 1045 that meet the requirements of AS 38.05.300 (i.e., areas necessary for land disposal or other form of development) or AS 38.05.185 (incompatible surface and subsurface uses and less than 640 acres in size) remain closed under these authorities and total 28,889 acres. These parcels are listed in Table 1 under the column 'Areas to Remain Closed' and their location is depicted in the report, 'Areas to Remain Closed to Mineral Entry', also attached.

VII. Effective Date: This Mineral Order is effective 30 calendar days from the date of approval by the DNR Commissioner.

Concur:  15 JUNE 2011  
Brent Goodrum, Director  
Division of Mining, Land & Water  
Date

Approved:  JULY 28, 2011  
Dan Sullivan, Commissioner  
Date

**TABLE 1**  
**AREAS TO BE OPENED/REMAIN CLOSED**  
**TO MINERAL ENTRY UNDER MO 1118**

AREAS TO OPENED/REMAIN CLOSED	ACREAGE	AREAS TO REMAIN CLOSED	AREAS TO BE OPENED	SPECIFIC AREAS TO BE EXCLUDED FROM MINERAL OPENING
<b>SOUTHEAST</b>				
Auke Weir	6	6		
Beecher Pass	1,193		1,193	
Biorka Island	438		438	
Cleveland Peninsula	4,055		4,055	
Coffman Cove	1,984	1,984		
Earl West Cove	3,564		3,564	
Edna Bay	250	250		
El Capitan North	1,847	1,847		
El Capitan South	865	865		
Excursion Inlet	477	477		
Favor Peak	1,290		1,290	
Harris Road Junction	320	320		
Hollis	622	622		
Hook Arm	1,280		1,280	
Ivanhoe	120		120	
Leask Cove	460	116	344	C073S092E:30(S1/2)
Lena Creek	610	610		
Lisianski Peninsula	1,443	1,443		
Lynn Canal	1,358		1,358	
Middle Island	665		665	
Mite Cove	320		320	
Moira Sound/Nowiskay Cove	160		160	
Moser Bay	906		906	

<b>AREAS TO OPENED/REMAIN CLOSED</b>	<b>ACREAGE</b>	<b>AREAS TO REMAIN CLOSED</b>	<b>AREAS TO BE OPENED</b>	<b>SPECIFIC AREAS TO BE EXCLUDED FROM MINERAL OPENING</b>
Olive Cove	450	450		
Port Conclusion	10	10		
Read Island	706		706	
Rowan Bay	665		665	
Sitka Campus	6	6		
Sumdum	5	5		
Tenakee Springs	346	346		
Thoms Place	2,360	2,360		
Ward Cove	3	3		
Whitney Island	316		316	
William Henry Bay	321		321	
<b>SUBTOTAL, SOUTHEAST</b>	<b>29,421</b>	<b>11,080</b>	<b>18,341</b>	

<b>AREAS TO OPENED/REMAIN CLOSED</b>	<b>ACREAGE</b>	<b>AREAS TO REMAIN CLOSED</b>	<b>AREAS TO BE OPENED</b>	<b>SPECIFIC AREAS TO BE EXCLUDED FROM MINERAL OPENING</b>
<b>SOUTHCENTRAL</b>				
Deception Creek	280	280		
Frying Pan Lake	450	450		
Mc-Carthy-Nizina	12,500	3,520	8,980	C005S013E: 28-30, 31(W1/2), 32, 33.
Willow Creek Road	1,000	1,000		
<b>SUBTOTAL, SOUTHCENTRAL</b>	<b>14,230</b>	<b>5,250</b>	<b>8,980</b>	

<b>AREAS TO OPENED/REMAIN CLOSED</b>	<b>ACREAGE</b>	<b>AREAS TO REMAIN CLOSED</b>	<b>AREAS TO BE OPENED</b>	<b>SPECIFIC AREAS TO BE EXCLUDED FROM MINERAL OPENING</b>
<b>NORTHERN - INTERIOR</b>				
Caribou-Poker Creeks Watershed	24,250		24,250	
Dalton Highway MP 48-54	1,360		1,360	
Dalton Highway MP 345 - 347	880		880	
Delta Ag and Forestry Experimental Station	363		363	
Haul Road Nodes - Coldfoot	1,700	1,700		
Jarvis Creek Coal	16,000		16,000	
Jennie M Creek C	5	5		
Lake Snohomish	740	740		
Nenana Oil and Gas Tract (part)	84,720	5,280	79,440	F005S009W: 10 (East 1/2 South of the Nenana- Kantishna Trail), 11 (W1/2), 15. TOTALLING 1,920 ACRES F006S010W: 8 (E1/2SE1/4) 9 (S1/2 and NE1/4), 16, 17 (S1/2, NE1/4, and S1/2NW1/4), 18 (SE1/4). TOTALLING 3,360 ACRES.
Noyes Slough	7		7	
Poker Flat Lease	533	533		
Poker Flat (SUA)	6,680		6,680	
Silver Fox Mine	120		120	
Summit Lake (Parks Highway)	960	960		
Tok Research Forest	4,015		4,015	

<b>AREAS TO OPENED/REMAIN CLOSED</b>	<b>ACREAGE</b>	<b>AREAS TO REMAIN CLOSED</b>	<b>AREAS TO BE OPENED</b>	<b>SPECIFIC AREAS TO BE EXCLUDED FROM MINERAL OPENING</b>
West Twin Lake	1,560	1,560		
Wien Lake	1,780	1,780		
<b>SUBTOTAL. NORTHERN - INTERIOR</b>	<b>145,674</b>	<b>12,599</b>	<b>133,115</b>	

**TOTALS, ALL AREAS**

<b>AREAS TO BE OPENED TO MINERAL ENTRY UNDER MO 1118</b>	<b>ACREAGE</b>	<b>AREAS TO REMAIN CLOSED</b>	<b>AREAS TO BE OPENED</b>
<b>Northern - Interior</b>	145,674	12,559	133,115
<b>Southcentral</b>	14,230	5,250	8,980
<b>Southeast</b>	29,421	11,080	18,341
<b>TOTAL</b>	<b>189,325</b>	<b>29,889</b>	<b>160,436</b>



**FINDING OF THE COMMISSIONER**  
**MINERAL ORDER 1118**  
**OPENING LANDS TO MINERAL ENTRY PREVIOUSLY CLOSED BY**  
**MINERAL ORDER 1045**

This mineral order (opening) rescinds Mineral Order 1045, which closed land to mineral entry that was to be conveyed to the University of Alaska under the authority of CCS HB 130 (efd fld S), approved in 2005. The Alaska Supreme court ruled in 2009 that most aspects of this legislation were invalid and required the State to desist from conveying state land to the University and, if conveyed, for the University to re-convey parcels to the State. The legislature, in the adoption of this legislation, did not legislatively close the parcels to be conveyed to the University. Mineral Order 1118 reopens 160,436 acres to mineral entry and location.

Mineral Order 1045, approved in June, 2006, closed the lands to be conveyed to the University in order to avoid the inadvertent or intentional staking of mining claims on lands to be conveyed to the University. The legislation stated that the Commissioner “may not convey, without the consent of the University, any ‘irrevocable interest’ in a parcel required to be conveyed to the University”, and a mining claim is a type of interest.

This mineral order opens the majority of this land to mineral entry but also retains certain lands as closed to mineral entry.

It opens lands to mineral entry that were formerly part of this legislation that are not required for land disposals or land exchanges (AS 38.05.300) or were determined to be valid conveyances under the legislation. Parcels listed in Table 1, ‘Areas to be Opened/Remain Closed to Mineral Entry under MO 1118’ and, specifically those parcels listed in the column ‘Areas to be Opened’ are re-opened to mineral entry under this order. These areas total 160,436 acres. The location of these parcels is identified in the map folio, ‘Areas to be Opened to Mineral Entry’.

Certain parcels or portions of parcel are not reopened to mineral entry in this Mineral Order. The Alaska Supreme Court determined in its decision that a parcel (Key Bank in Fairbanks) had already been conveyed to the University and was not properly the subject of the legislation and that the University Research Forest was appropriately conveyed under aspects of the legislation. Both remain closed to mineral entry. In addition, this Order does not open to mineral entry those parcels that are intended for development through a land disposal, land exchange, or are required for similar projects or infrastructure as specified in AS 38.05.300 or meet the standards of AS 38.05.185 (incompatible surface and subsurface uses and where the parcel size is less than 640 acres.) These parcels remain closed to mineral entry under the authority of AS 38.05.185 and AS 38.05.300 until such time that the Department determines that they are no longer required for this function.

Parcels in Table 1 and identified in the column 'Areas to Remain Closed' are to remain closed to mineral entry under the authorities of AS 38.05.185 and AS 38.05.300. Affected parcels are identified in the map folio, 'Areas to Remain Closed to Mineral Entry. Approximately 28,889 acres are to remain closed.

Public review (January 2011) of the proposed Mineral Order resulted in both deletions from and additions to the initial listing of parcels to be opened to mineral entry, it should be noted. Parcels were deleted from the initial listing if, upon review, they were determined to be necessary to a land disposal or other form of development noted in AS 38.05.300 or met the standards of AS 38.05.185. Significant among these deletions were areas associated with conveyances to municipalities or important to residential or commercial development (Olive Cove, Thoms Place, Tenakee Springs, El Capitan South, Jennie M Creek), already existing development (Sitka Campus), and important recreation/cultural sites (Sumdum). A total of 4,808 acres were removed from the initial Mineral Order. Parcels were added to this listing if, upon review, they

were determined to be a multiple use area (i.e., not an area necessary for land disposal or other form of development). Significant among these additions were areas associated with multiple uses or recreational uses as described in state area plans (Dalton Highway, Cleveland Peninsula, Coffman Cove, Earl West Cove). These totaled 7,939 acres for a net change of 3,131 acres (added to those areas to be opened).



Concur, Brent Goodrum

Director, DMLW



Approved, Dan Sullivan

DNR Commissioner

15 JUNE 2011

Date

JULY 28, 2011

Date

## **Request for Reconsideration of Decision**

A person affected by this decision may request reconsideration, in accordance with 11 AAC 02. Any reconsideration request must be received by August, 17, 2011 and may be mailed or delivered to Dan Sullivan, 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@alaska.gov](mailto:dnr.appeals@alaska.gov) . If reconsideration is not requested by that date or if the commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on August 29, 2011. Failure of the commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.