

**Alaska Mental Health Trust Authority**  
**Trust Land Office**  
**Notice under 11 AAC 99.050 of**  
**Decision to Issue a Negotiated Placer Mineral Lease**  
**MHT #9400622**

Notice is hereby given that, pursuant to the provisions of AS 38.05.801 and 11 AAC 99, the Executive Director of the Alaska Mental Health Trust Land Office (TLO) has determined that it is in the best interest of the Alaska Mental Health Trust and its beneficiaries to issue a Negotiated Placer Mineral Lease for certain Trust land to Buckeye Land and Minerals, Inc.. The basis for this determination is explained in a written best interest decision prepared by the Executive Director pursuant to 11 AAC 99.040.

The Trust land affected by this decision is near the community of Livengood, within Trust parcel F70536, and consists of approximately 93 acres located in SW1/4 Section 25 and the SE1/4 Section 26 in Township 8 North, Range 5 West, Fairbanks, Meridian.

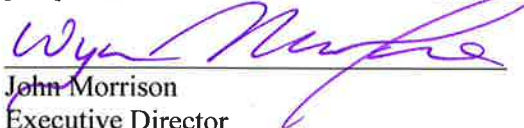
Persons who believe that the written decision should be altered because it is not in the best interests of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020, or any other provision of 11 AAC 99, must provide written comments on or before **4:30 PM, June 12, 2017. Comments should be submitted to the TLO at 2600 Cordova Street, Suite 100, Anchorage, AK 99503, or by fax (907) 269-8905 or email [mhtlo@alaska.gov](mailto:mhtlo@alaska.gov).** Following the comment deadline, the Executive Director will consider timely comments that question the decision on the basis of the best interest of the Alaska Mental Health Trust and its beneficiaries or inconsistency with 11 AAC 99, and the best interest decision may be changed in response to such written comments or other information. Commenting parties will be provided a copy of the final best interest decision after the end of the notice period.

To be eligible to file for reconsideration of the best interest decision, or to file a subsequent appeal to the Superior Court, a person must have submitted written comments during the notice period. Eligible persons will have twenty (20) calendar days after published notice of or receipt of the final written decision to request that the Executive Director reconsider the decision under 11 AAC 99.060(b).

Copies of the written decision are available at the Trust Land Office, or at [www.mhtrustland.org](http://www.mhtrustland.org). If you have any questions concerning this action, please contact the Trust Land Office at (907) 269-8658.

In compliance with the Americans with Disabilities Act, the Alaska Mental Health Trust is prepared to accommodate individuals with disabilities. Please contact the Trust Land Office at (907) 269-8658 for assistance. Requests for assistance must be received at least 96 hours prior to the comment deadline in order to ensure that any necessary accommodations can be provided.

The Executive Director of the TLO reserves the right to waive technical defects in this notice or to amend, postpone, or vacate the best interest decision.

  
John Morrison  
Executive Director

5/9/17  
Date  
Published Fairbanks Daily News-Miner: May 11, 2017

**The Alaska Mental Health Trust Authority  
Trust Land Office**

**BEST INTEREST DECISION  
Buckeye Land and Minerals-Negotiated Placer Lease**

MHT #9400622  
MH Parcel(s) F70536

In accordance with AS 38.05.801 et seq. and the implementing regulations governing Alaska Mental Health Trust (“Trust”) land management (11 AAC 99), Trust land shall be managed consistently with the responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)). This means that management shall be conducted solely in the best interest of the Trust and its beneficiaries.

In determining the best interest of the Trust and its beneficiaries, and in determining consistency between state law and the Alaska Mental Health Enabling Act, the Executive Director of the Alaska Mental Health Trust Land Office (“TLO”) shall, at a minimum, consider the following interactive Trust management principles in accordance with 11 AAC 99.020:

- Maximization of long-term revenue from Trust land;
- Protection of the corpus;
- Protection and enhancement of the long-term productivity of Trust land;
- Encouragement of a diversity of revenue-producing uses of Trust land; and
- Management of Trust land prudently, efficiently, and with accountability to the Trust and its beneficiaries.

- I. **Proposed Use of Trust Land.** Negotiated placer mineral lease for approximately 93 acres of Trust mineral estate on Olive Creek.
- II. **Applicant/File #.** Buckeye Land and Minerals, Inc. The application is serialized as MHT 9400622.
- III. **Subject Property.**
  - A. **Legal Description.** A portion of Trust Parcel F70536 located in SW1/4 Section 25 and the SE1/4 Section 26, Township 8 North, Range 5 West, Fairbanks Meridian, Alaska, containing 93 acres more or less.
  - B. **Settlement Parcel Number(s).** F70536.
  - C. **Site Characteristics/Primary Resource Values.** The Subject Land is located about 60 miles northwest of the city of Fairbanks, in a relatively undeveloped area north of the Elliot Highway about 5 miles from the village of Livengood. The area is primarily rolling hills and some lowlands covered by a mixed spruce/birch forest. The area is in an historic mining district, and placer mining is occurring in the area today. The Trust owns the fee estate in the Subject Land. At this point, the resource values of interest to the Trust are minerals. Exploration and mining of this land for this purpose would

not preclude other uses of the land in the future after mining is complete and the area is reclaimed. The area is considered to be prospective for placer mineralization.

- D. Historical and Existing Uses of the Property.** The area around Livengood is the heart of the Tolovana Mining District. One of the largest deposits of placer gold in North America is located along the banks of Livengood Creek, which is an adjacent drainage to Olive Creek. The area has been mined since the early 1900's. Lode deposits in the Tolovana Mining District contain gold, silver, antimony, mercury, chromium, nickel, and iron. Other Trust land in the area has either been leased for mineral development or has state or federal mining claims encumbering the land. Some recreational activities such as hunting, trapping, and snowmobiling may also occur in the area.
- E. Adjacent Land Use Trends.** Trust land to the north of the Subject Land is currently leased to Tower Hill Mines, Inc.. Land to the south is encumbered by state mining claims owned by Buckeye and other claim holders.
- F. Previous State Plans/Classifications.** None.
- G. Existing Plans Affecting the Subject Parcel.** The Subject Land is included in the Tanana Basin Area Plan (TBAP). The primary land use designation in this area is Minerals, and Public Recreation is the secondary use. As previously mentioned, the management area around Livengood is the core of the Tolovana Mining District. While Trust land is not subject to the TBAP, the proposed land use is consistent with the designated uses in the Plan.
- H. Apparent Highest and Best Use.** Parties to the Mental Health Trust Settlement assumed mineral development to be the highest and best use of lands in the area when they agreed to include extensive acreage in this area in the reconstituted trust. The proposed use corresponds with this assumption of land use, and therefore appears to be the highest and best use of the Subject Land from the Trust's prospective.

**IV. Proposal Background.** The land proposed for lease to Buckeye Land and Minerals, Inc. (Buckeye) was previously being mined pursuant to federal mining claims held by Buckeye. These claims were deemed abandoned by the BLM because of failure to file the required paper work to hold the claims. The land was subsequently conveyed to the Trust based on an existing land selection of this area. Because this was an existing mining operation, Buckeye is prepared to move forward with renewed mining on the Subject Land if this lease can be successfully put in place.

**V. Terms and Conditions.**

- A. Lease Term.** The primary lease term is three years, and can be extended by production, but will not extend beyond five years unless agreed to in writing by Lessor.
- B. Annual Rental.** \$5,000. The rental payment for each lease year can be credited against production royalty as it accrues for that year.
- C. Production Royalty.** 10% net royalty on production.
- D. Work Commitment.** The Lessee will be required to commence operations within 90 days from the effective date of the lease, and diligently develop the lease during the lease term.

- E. **Data.** The TLO will receive copies of all data and information developed as a result of the lease operations.
- F. **Environmental Laws and Considerations.** Lessee will be required to enter into an upland mining lease with the TLO, with the lease requiring full compliance with all applicable environmental laws.

**VI. Resource Management Considerations.** The proposal is consistent with the Resource Management Strategy for Trust Land (RMS) which was adopted in March 2016 in consultation with the Trust and provides for the TLO to focus on land or resources at the high end of market values (“best markets”). The current market values of precious metals are sufficient to create a demand for mineable land so the prospective mineral land affected by this decision is in a “best market” situation and, based on demand, should be offered now. Additionally, this was an ongoing mining operation before regulatory and administrative issues curtailed the operation. Further, the action is a step toward generating revenues from Trust mineral resources, consistent with a key Trust land management principle of encouraging a diversity of revenue generating uses of Trust land.

**VII. Alternatives.**

- A. Offer the Trust land for lease as proposed.
- B. Do not lease the land and discourage further development of mineral resources on Trust land in the area.
- C. Conduct a competitive offering for the Subject Land.

**VIII. Risk Management Considerations.**

- A. **Performance Risks.** Performance risks will be minimized through aggressive enforcement of the terms and conditions of the mineral lease, including, but not limited to those provisions that address royalty payments, work commitments, development plan approval, and diligent resource development over time.
- B. **Environmental Risks.** The exploration, development, and mining activities performed under this lease will be done within the parameters of local, state, and federal environmental protection laws that generally apply to private land. Lease terms require compliance with applicable federal statutes as well as state reclamation requirements. The successful lessee will be adequately bonded and insured.
- C. **Public Concerns.** Historically, concern has been expressed about the impact of mineral leasing activities on public resources, such as fish and wildlife resources. Environmental laws and regulations have been promulgated over time to address these concerns. As noted above, the TLO lease requires full compliance with those laws and regulations.

**IX. Due Diligence.**

- A. **Site Inspection.** TLO personnel have visited the area on numerous occasions in conjunction with previous mineral leasing of Trust land in the area.
- B. **Valuation.** The Subject Land will be leased pursuant to the terms and conditions of a Negotiated Placer Mineral Lease. It will be a standard form lease substantially the

same as has been used in previous TLO mineral lease transactions, and includes the terms and conditions outlined above.

**Terms and Conditions Review.** The TLO contracted with a private law firm and collaborated with other public and private land managers as well as miners and representatives of the mining industry to develop terms and a lease form that best serves the interests of the Trust.

**X. Authorities.**

**A. Applicable Authority.** AS 37.14.009(a), AS 38.05.801, and 11 AAC 99 (key statutes and regulations applicable to Trust land management and disposal).

**B. Inconsistency Determination.** As the proposed negotiated mineral lease is specifically authorized under 11 AAC 99, any relevant provision of law applicable to other state lands is inapplicable to this action if it is inconsistent with Trust responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)) as clarified by AS 38.05.801 and Alaska Mental Health Trust land regulations (11 AAC 99). 11 AAC 99 includes determinations that certain State statutes applicable to other State land do not apply to Trust land unless determined by the Executive Director, on a case-by-case basis, to be consistent with 11 AAC 99.020. The State Statutes deemed inconsistent with Trust management principles and inapplicable to Trust land by these regulations have not been applied to this decision or this action, including, but not limited to, AS 38.04 (Policy for Use and Classification of State Land Surface), AS 38.05.035 (Powers and Duties of the Director), AS 38.05.300 (Classification of Land), AS 38.05.945 (Notice), AS 38.05.946 (Hearings), and 11 AAC 02 (Appeals). In addition to those provisions of law deemed inconsistent by 11 AAC 99, the following relevant provisions of law are deemed inconsistent with Trust management principles and will not apply to this action: AS 27.30.010-.070, which pertains to Exploration Incentive Credits, and associated regulations. This statute was developed to attract the mineral industry to state and private land and to provide general benefits statewide. Trust lands are managed solely for the benefit of the mental health beneficiaries, Exploration credits for mineral exploration may apply to Trust land rents and royalties if this provision is negotiated in consultation with the Trust under 11 AAC 99.100(d). Terms and conditions applicable to this transaction do not provide for application of exploration credits to Trust land rents and royalties, Therefore, to the extent that AS 27.30.010-.070 requires otherwise is inconsistent and not applicable to Trust lands. Further, numerous provisions of law require levels of performance that are less than those required by terms and conditions negotiated in consultation with the Trust under 11 AAC 99.100(d). To allow application of those provisions of law would result in a transaction that does not comply with trust management principles provided for in 11 AAC 99.020. Therefore, provisions of law that are applicable to other state lands that are inconsistent with the negotiated terms of this proposed transaction are hereby deemed inconsistent with 11 AAC 99.020 and do not apply to this transaction. These provisions and their associated regulations include, but are not limited, to the following: AS 38.05.210, 211, 215, 225, 230, 235, 240 (Annual Rent and Labor); AS 38.05.245, 255, 265, 270, 275, (Surface Use of Land and Waters); AS 38.05.135, 137, 140, 145 (Leasing of Mineral Land); and AS 38.05.285 (Multiple Use).

**XI. Trust Authority Consultation.** The Alaska Mental Health Trust Resource Management Committee was consulted on April 20, 2017. The Committee recommended that the proposed transaction be forwarded to the Alaska Mental Health Trust Board of Trustees. The Board of Trustees was consulted on May 4, 2017, and the Board of Trustees concurred with the negotiated lease subject to the outcome of the notice process.

**XII. Best Interest Decision.** Given the information above and the information contained in the complete record, the Executive Director finds that the proposed transaction is in the best interest of the Trust, subject to the terms and conditions addressed in this decision. The decision is based upon the consideration of the five Trust management principles set out in 11 AAC 99.020 and is in full compliance with 11 AAC 99. This decision does not preclude the TLO from determining that an alternative proposal will serve the best interest of the Trust. A future determination of that nature will require a best interest decision specific to the proposal.

**XIII. Opportunity for Comment.** Notice of this Best Interest Decision will take place as provided under 11 AAC 99.050. Persons who believe that the decision should be altered because it is not in the best interest of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020 or any other provision of 11 AAC 99, must provide written comments to the TLO during the notice period. Following the comment deadline, the Executive Director will consider timely written comments that question the decision on the basis of the best interest of the Trust and its beneficiaries or inconsistency with 11 AAC 99. The Executive Director will then, in his or her discretion, modify the decision in whole or in part in response to such comments or other pertinent information, or affirm the best interest decision without changes. The best interest decision as modified or affirmed will become the final agency action, subject to reconsideration procedures under 11 AAC 99.060. Additional notice will be provided for a substantially modified decision. If no comments are received by the end of the notice period, this best interest decision will be affirmed and the proposed action taken. (See notice for specific dates.)


**XIV. Reconsideration.** To be eligible to file for reconsideration of this Best Interest Decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

Persons who submit timely written comments will be provided with a copy of the final written decision, and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the request for reconsideration. If the Executive Director takes no action during the 20-day period following the request for reconsideration, the request is considered denied. Denial of a request for reconsideration is the final administrative decision for purposes of appeal to the superior court under AS 44.62.560.

**XV. Available Documents.** Background documents and information cited herein is on file and available for review at the TLO, located at 2600 Cordova Street, Suite 100, Anchorage, Alaska 99503. Phone: (907) 269-8658. Email: [mhtlo@alaska.gov](mailto:mhtlo@alaska.gov).

The disposal action proposed by this decision will occur no less than 30 days after the first publication date of this decision, and after the conclusion of the TLO administrative process. For specific dates or further information about the disposal, interested parties should contact the TLO at the above address, or visit the website at: [www.mhtrustland.org](http://www.mhtrustland.org).

**XVI. APPROVED:**

  
\_\_\_\_\_  
John Morrison  
Executive Director  
Alaska Mental Health Trust Land Office

5-08-17  
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Date