

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue a Negotiated Surface Lease – Victoria Creek Project - Fairbanks
MHT #9400734

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 complete a negotiated surface lease of certain Trust land to Fairbanks Gold Mining, 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 the decision is adjacent to Fairbanks, and is more particularly described as a portion of trust land located within Section 27-29 and 32, Township 002 North, Range 002 East, Fairbanks Meridian containing approximately 749 acres (MH Parcel(s) F70015).

Persons who believe that the written 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 on or before **4:30 PM, February 3rd, 2021. Comments should be submitted to the TLO at 2600 Cordova Street, Suite 201, Anchorage, AK 99503, or by fax (907) 269-8905 or email 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 <https://alaskamentalhealthtrust.org/trust-land-office/>. 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.

DocuSigned by:

Jusdi Doucet

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Jusdi Doucet
Acting Executive Director

12/30/2020

Date

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The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Surface Lease - Victoria Creek Project - Fairbanks

MHT: #9400734
MH Parcel(s): F70015

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. The applicant proposes to lease a portion of parcel F70015 for purposes of developing a waste rock dump in support of the Fort Knox Mine.

II. Applicant/File #. Fairbanks Gold Mining, Inc. / MHT 9400734

III. Subject Property.

A. Legal Description. A 749-acre portion of Parcel F70015 within Township 002 North, Range 002 East, Sections 27-29 and 32, Fairbanks Meridian, more or less according to the survey plat approved by the U.S. Surveyor General’s Office in Juneau, Alaska on January 16, 1914.

B. Settlement Parcel Number(s). F70015

C. Site Characteristics/Primary Resource Values. The parcel is located within the Tintina Gold Belt and Fairbanks Mining District approximately 25 miles northeast of Fairbanks. The site is primarily covered in low alpine boreal shrubbery, primarily mixed black/white spruce and willow with limited areas of shrub wetland. The primary resource value is mineral in nature.

D. Historical and Existing Uses of the Property. The property is located approximately 25 miles northeast of Fairbanks, in the vicinity of Cleary Summit. Trust Parcel F70015, within which the property is located, was selected for the Trust because of the potential mineral values associated with the area. It occurs along the mineralized Tintina Gold Belt which extends in an arc-like fashion across

Alaska and beyond the Canadian border to the east. Mineral occurrences within the province include Pogo, Livengood, Donlin and of course, Fort Knox. The parcel has experienced significant exploration and development for locatable minerals since gold was first discovered on the nearby Pedro Creek in 1902. Some recreational use is evidenced by existing trails on satellite imagery.

- E. Adjacent Land Use Trends.** Adjacent land use trends are mineral exploration and development, public recreation, and wildlife habitat. The applicant leases a block of adjacent State of Alaska Mining Claims and Upland Mining Leases.
- F. Previous State Plans/Classifications.** None.
- G. Existing Plans Affecting the Subject Parcel.** Eastern Tanana Area Plan – Management for adjacent State Lands is Mineral and Dispersed Public Recreation.
- 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 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 lands from the Trust’s perspective. While mineral extraction within this portion of the parcel is not planned, future mineral recovery is not anticipated due to the low grade of material found in this area.

IV. Proposal Background. The applicant proposes to execute a surface lease to authorize the deposition of approximately 65 million tons of waste rock material removed from the Fort Knox Mine open-pit as a result of the pit expansion projects (referred to as “Gilmore Pushback”, or “Phase 9 and 10”). Waste rock storage will occur in a three-phase approach over several years until the pit expansion projects are completed. The project area will be reclaimed to State of Alaska Reclamation Standards described in AS 27.19 and monitored to ensure reclamation is successful.

V. Terms and Conditions. The proposed action includes leasing surface use to the aforementioned portion of F70015 for a primary term of five years, with one additional term of five years to accommodate the potential for additional pit expansion and successful reclamation. The rent will be \$80,880 paid annually.

- A. Conversion to Mineral Lease.** Should the mineral estate encumbrances become abandoned while this agreement is in effect, an amendment request to convert the surface lease agreement to a mineral lease shall be filed by the applicant. The amendment will include the following additional terms:
 - i. **Annual Rent.** The rent will be \$80,880 (12% of the land appraisal value), paid annually.
 - ii. **Annual Work Commitment.** An annual work commitment will also be required at \$150 per acre per year.
 - iii. **Production Royalty.** A royalty will be assessed based on the Trust’s standard sliding scale ranging from 3% to 4.5% for gold.
 - iv. **Data.** The TLO will receive copies of all data and information obtained as a result of the lease operations.
 - v. **Allowable deductions.** Lessee will offset rental payments by production royalties due to the Trust in the year those payments are due.

- vi. **Other.** In the event that significant changes occur in the marketplace or knowledge of the subject lands significantly improved, the TLO, after consultation with the Trust Authority and public notice, may alter the terms and conditions of subsequent offerings in this area.

VI. Resource Management Considerations. The proposal is consistent with the “Resource Management Strategy for Trust Lands” (RMS), which was adopted in March 2016 in consultation with The Trust and provides for the TLO to “focus first on land or resources at the high end of their market values (“best markets”).” Given the currently increasing values of base and precious metals, the mineral resources affected by this decision are “best market” resources that should be offered now rather than later. Additionally, the action is a required “first step” towards generating potentially significant 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. Do Nothing:** The TLO could refuse the offer to lease the subject lands and discourage further development. This is not a preferred option because it would limit the royalty received off Trust lands in a market of high gold prices.
- B. Alternate Option:** The TLO could offer the lands for competitive leasing. This is not a preferred option because it would prevent the applicant from reaching additional ore reserves in the Fort Knox Pit. Further, the applicant owns State of Alaska Mining Claims encumbering the subject lands’ mineral rights. To competitively lease the lands would be contrary to the Trust’s interest.
- C. Proceed as Proposed:** The TLO would receive revenues from lease rentals and continue to receive royalty revenues from the development of the Fort Knox pit.

VIII. Risk Management Considerations.

- A. Performance Risks.** Performance risks will be minimized through aggressive enforcement of the terms and conditions of the lease, including by not limited to those provisions that address development plan approval, diligent resource development over time and reclamation activities.
- B. Environmental Risks.** The development activities performed under the lease will be done within the parameters of local, state and federal environmental protection laws that generally apply to private lands. Lease stipulations require compliance with CERCLA, RCRA, as well as state reclamation requirements. The Lessee will be adequately bonded and ensured.
- C. Public Concerns.** Historically, significant concern has been expressed about the impact of the leasing activities on public resources such as fish and wildlife. Environmental laws, regulations, and specialized operating guidelines have been developed to mitigate potential impacts to public resources. As noted above, the TLO lease will require full compliance with those laws and regulations.

IX. Due Diligence.

- A. Site Inspection.** A pre-development site inspection was conducted on September 10, 2020 by Trust personnel.

- B. Valuation.** Lease rental rates were established in consideration with the anticipated uses of Trust lands and restrictions to the surface estate. Lease rates are consistent with similar agreements and were guided by fair market value for the region, assessed at 12% of the land appraisal value.
- C. Terms and Conditions Review.** No independent review of the proposed terms and conditions was required because they are standard to the leases already reviewed by a contracted private law firm and other public and private land managers to best serve 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 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).

XI. Trust Authority Consultation. The Alaska Mental Health Trust Resource Management Committee was consulted on October 21, 2020. 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 November 18, 2020, and the Board of Trustees concurred with the proposed lease.

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.

Non-competitive Disposal Determination. 11 AAC 99.020 (d) allows for the disposal of Trust land through a competitive basis, unless the Executive Director in consultation with the Trust Authority, determines in a written decision required by 11 AAC 99.040 that a non-competitive disposal is in the best interest of the Trust and its beneficiaries. This non-competitive disposal is in the Trust's best interest because this authorization is essential to FGMI's operational plans to realize the benefits of mine development phases nine and ten,

which has already been determined in the best interest of the Trust and its beneficiaries. A competitive disposal would be contrary to the applicant successfully developing the lands herein and would prevent the Trust from receiving royalty on production.

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 may 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). This request must be accompanied by the fee established by the Executive Director under 11 AAC 99.130, which has been set at \$500, to be eligible for reconsideration. 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 201, Anchorage, Alaska 99503. Phone: (907) 269-8658. Email: 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: <https://alaskamentalhealthtrust.org/trust-land-office/>.

XVI. APPROVED:

DocuSigned by:

Jusdi Doucet

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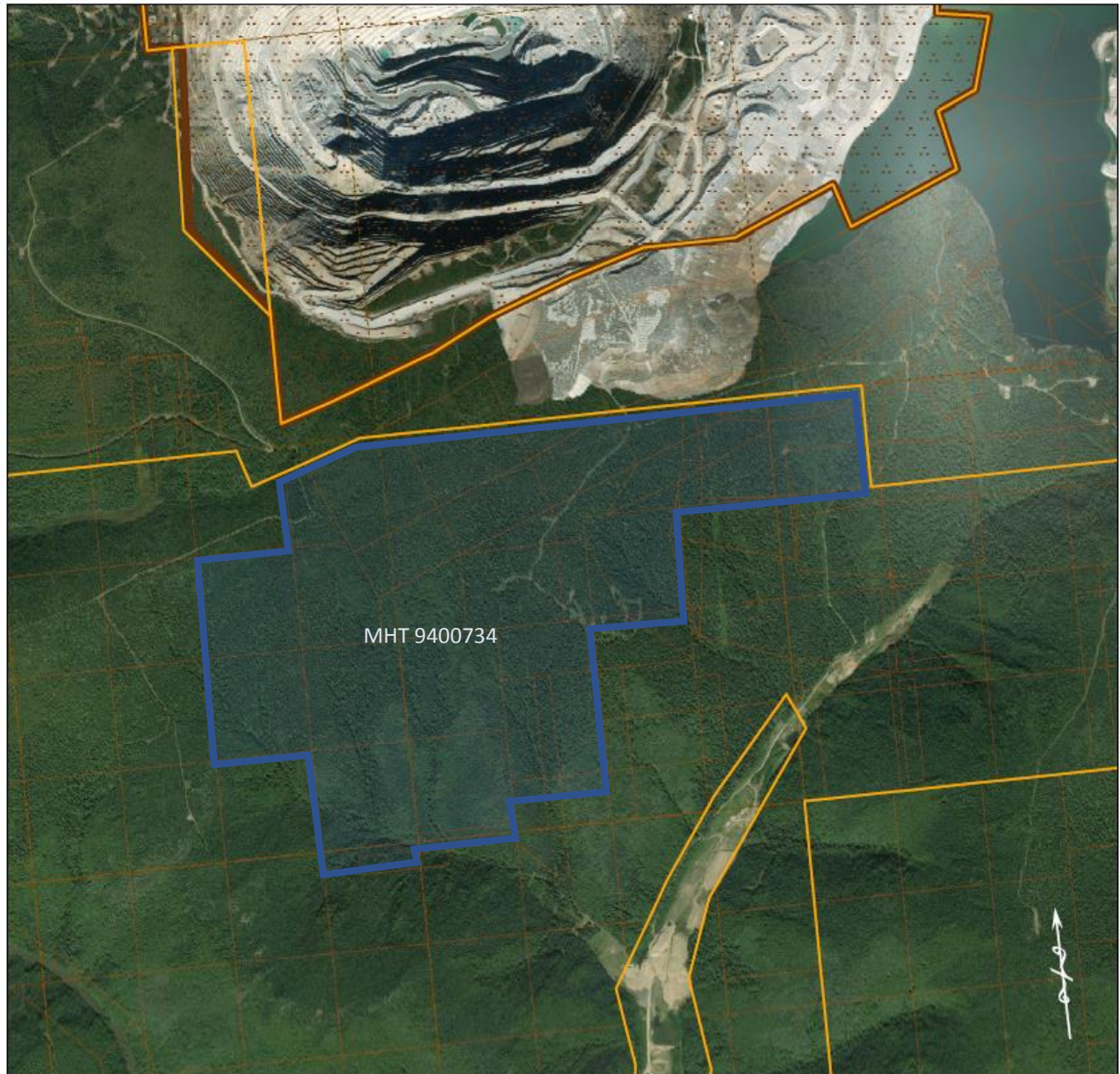
Acting Executive Director

Alaska Mental Health Trust Land Office

12/30/2020

Date

ATTACHMENT A



MHT 9400734 Victoria Creek Project

30 15 0 30 Miles

Legend

- MHT 9400734 Victoria Creek
- MHT Settlement Parcels F70015
- State of Alaska Mining Claims
- Section Grid



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