

**Alaska Mental Health Trust Authority**  
**Trust Land Office**  
**Notice under 11 AAC 99.050 of**  
**Best Interest Decision Modified – Negotiated Mineral Lease – Fairbanks**  
**MHT #9400748**

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 issued a final finding and determined that it is in the best interest of the Alaska Mental Health Trust and its beneficiaries to complete a negotiated mineral lease of certain Trust land to the Felix Gold Alaska, Inc. The basis for this determination is explained in a modified best interest decision prepared by the Executive Director pursuant to 11 AAC 99.040.

Persons who submitted timely written comments during the notice period that ended 4:00 PM Alaska Standard Time on July 30, 2021, are eligible to request reconsideration of this final best interest decision under 11 AAC 99.060(b) within 20 calendar days after publication of this notice or receipt of the final decision, whichever is earlier. A request for reconsideration must be submitted in writing to the Executive Director and must clearly follow submission requirements outlined under 11 AAC 02.030. This request must also 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. Before filing an appeal to the Superior Court under AS 44.62.560, a person must be eligible to request and must actually request reconsideration within the time specified above.

The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the written request for reconsideration. If the Executive Director takes no action during the 20-day period following the request, 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.

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  
Executive Director

10/5/2021

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Date

Published Fairbanks Daily News: 10/06/2021

**The Alaska Mental Health Trust Authority**  
**Trust Land Office**  
**BEST INTEREST DECISION AFFIRMED AS MODIFIED**  
**Negotiated Mineral Lease – Fairbanks**

**MHT 9400748**  
**MH Parcel(s): See Attached**

**Action:** Adopt the Best Interest Decision dated June 25, 2021 regarding the above referenced disposal as final, with modification. This decision document, combined with the Best Interest Decision dated June 25, 2021, and modified below constitutes the final decision on this matter, in accordance with 11 AAC 99.040.

**Notice under 11 AAC 99.050.** The Trust Land Office published the public notice of the decision to issue a negotiated mineral lease in the Fairbanks Daily News Miner, on the State of Alaska’s online public notice website, and distributed the notice to the Fairbanks North Star Borough, Doyon, Ltd., the Alaska Mental Health Trust Authority, and other interested public and private parties on June 30, 2021.

**Summary of Comments:** The Trust Land Office received 558 individual timely comments and 48 untimely comments. Of the total timely comments, fifteen were in support of the proposal citing positive economic growth, job opportunities and potential revenue generation to the Trust. The remaining comments were opposed or of mixed opinion in nature. The comments submitted can be summarized in the following categories: public recreation, impact to residential areas and home devaluation, public process, highest/best use, and due diligence. Many comments received were beyond the scope of the current action proposed. TLO decisions are based on the Trust management responsibilities accepted by the Territory of Alaska under the 1956 Alaska Mental Health Enabling Act, as further clarified by the 1994 Alaska Mental Health Trust litigation settlement and its associated State of Alaska legislation. Specifically, as required by 11 AAC 99.020(b), Trust land is to be managed “solely in the best interest of the Alaska Mental Health Trust and its beneficiaries.” To the extent that management solely in the best interest of the Trust results in broader public purpose outcomes, said management is allowed. However, if management for broader public purposes, such as recreational opportunities, access protection or private property value protection beyond what is required by law, results in a cost to the Trust and its beneficiaries or an abrogation of the TLO’s responsibility to maximize the benefits from a given asset to the beneficiaries, then the action would be a direct breach of the trust fiduciary responsibility.

**Response to Comments by Topic:**

**1. Public Recreation.** A number of commenters voiced concern over potential impacts or restrictions to recreational trail uses on Trust lands as a result of mineral development.

**Response.** Recreational trail use on Trust lands is a convenience to the public and is generally a non-revenue generating activity. To the extent management of Trust lands affords the general public such convenience, the activity is allowed. All reconnaissance work such as mapping, soil sampling or geophysics can be conducted without disrupting existing recreational trail use and, in many cases, can increase recreational trail use opportunities for the future. If drilling is warranted, drill areas may be temporarily restricted for safety purposes. If mining is ever proposed, trail use and public access will be addressed in the Department of Natural Resource’s public permitting process. The mineral lease will stipulate a requirement to reduce impacts to recreational trail users to the greatest extent practicable through the life of the authorization.

**2. Residential Impacts and Home Values.** A number of commenters were concerned with potential impacts to nearby residential areas and the values of residential properties being affected by mining.

**Response.** A number of commenters voiced concerns regarding potential impacts of dust, noise, water pollution and use of existing roadways. Despite the removal of acreage within the Ester Dome area, these concerns are preemptive in nature. While a mineral lease temporarily conveys the mineral rights for purposes of exploration or development, the issuance of a mineral lease does not expressly authorize a

mine and therefor, concerns for impacts of mining activities are beyond the scope of this decision. Any future development proposal must undergo a stringent regulatory process to acquire the necessary State and federal authorizations before conducting mining activity. Likewise, Trust lands are not managed in the greater interest of adjacent property owners and is also beyond the scope of this decision. Should mining be proposed in the future, potential environmental impacts will be managed and mitigated through the Department of Natural Resources mine permitting process, which includes collaboration with the applicable regulatory agencies having primacy over laws and regulations governing mining in Alaska.

3. ***Inadequate Public Notice.*** Commenters alleged that the TLO did not give sufficient public notice.

***Response.*** The TLO issued a 30-day public notice to the Fairbanks Daily News Miner, the Fairbanks North Star Borough, Doyon, Ltd., the State of Alaska Online Public Notice System, and the Alaska Mental Health Trust Authority Website on June 30, 2021. The TLO received 558 timely comments, which demonstrate the public notice process was successful in alerting the public of the proposed action. This satisfies the regulatory requirement for public notice under 11 AAC 99.050. The TLO issues public notice to give an open and transparent opportunity for the public to submit comments regarding the best and highest use of Trust lands in the *sole interest of the Trust and its beneficiaries*.

4. ***Effects of Proposed Lease on Other Resource Values.*** A number of comments pertained to the potential effects of the proposed action on other resources such as air, water, and wildlife.

***Response.*** If a lease is issued, there is no guarantee that commercially viable quantities of minerals will be located or developed. Leasing is a preliminary step in making the resource available for exploration, after which a determination can be made as to development opportunities. All activities on a lease will be regulated by the agencies administering the regulations contained in the Alaska Mine Reclamation Statutes and other pertinent statutes and regulations. Any permits that are issued by the appropriate regulatory authorities for activities on the lease will be based on applicable studies of impacts, including an environmental impact statement if the proposed activities require it. The purpose of State Statutes pertaining to mine reclamation, and by extension, exploration reclamation, is to prevent, minimize, and mitigate potential impacts from exploration and development of mineral resources. There are no requirements of the TLO to perform studies or develop environmental impacts statements to issue a lease for a Trust resource; these requirements would be considered during a permitting or regulatory review by the appropriate state and federal agencies, if a mining permit is pursued by an applicant. The only regulatory requirement for the TLO is finding that the mineral offering for lease is in the best interest of the Trust and its beneficiaries and is based upon Trust land management principals.

5. ***Land Use/Highest and Best Use.*** A number of questions were raised regarding the TLO's findings that the highest and best use of the subject land is mineral leasing and suggested that other types of land use should be considered, specifically, recreation or residential land uses.

***Response.*** Since the TLO's primary responsibility is to maximize revenue from Trust land over time and to protect and enhance the value of Trust land (11 AAC 99.020(c)), the TLO's highest and best use determination is correct. The parcels were specifically selected and conveyed to the Trust for the potential mineral value and the potential revenue generation is commiserate with similar mineral leases on Trust lands. Industry interest exists to explore this area for its minerals at this time and it may not exist at another time. The Trust will maximize its revenue generating potential by acquiring essential data on the land's potential mineral value, extracting any economic and feasible mineral value first, and potentially subdividing and selling parcels for residential use or some other use in the interest of Trust beneficiaries, post reclamation. Further, no proposals to offer a higher potential revenue for the lands in this proposal were received, nor a competitive offer from industry. Recreational land use was proposed as an alternative to mineral leasing, citing its value to the general public. Historically, recreational land use does not provide sustainable, consistent, long term revenue with similar yield to mineral development, or any revenue at all. To forego the potential to develop the mineral resources would clearly violate the intent of the interrelated trust management principles provided under 11 AAC 99.020(c). To forego maximizing revenue from trust land would be a direct violation of the fiduciary responsibility of the trust.

6. **Due Diligence/Inadequate Information.** A number of comments assert that the TLO has not exercised sufficient due diligence efforts in the Best Interest Decision, prior to deciding to offer the proposed area for lease.

**Response.** The decision to offer this land for mineral leasing is based on the purpose for which the land was originally conveyed to the Trust, information on mineral resources in the area, industry interest, compliance with Trust land management principles, and concurrence by the Mental Health Trust Board of Trustees. Since the Best Interest Decision was issued, TLO staff have conducted an on-site inspection as well. Much of the due diligence referred to in the comments would be accomplished by interested mining companies as they develop information about the mineral resource and during preparation to submit applications for the myriad of permits required to develop a mine, should such a proposal ever be warranted in the future.

**Trust Authority Consultation:** The Alaska Mental Health Trust Authority was consulted on this matter on April 22, 2021.

**Modifications:** The TLO considered all timely comments. However, before a decision was rendered the applicant requested the TLO to reduce the lease area by excluding approximately 3,851 acres on or near Ester Dome. Therefore, on the basis of the applicant's request, the Executive Director has determined the legal description, including reduction in the acreage as requested by the applicant, shall be modified and attached hereto. Now, therefore, the Executive Director of the Trust Land Office hereby determines that the negotiated mineral lease offering as modified is in the best interest of the Trust.

**Final Decision of the Executive Director:** Considering all of the above, the Executive Director of the Trust Land Office hereby adopts the Best Interest Decision Modified dated October 5, 2021 as final.

**Reconsideration:** Persons who submitted timely written comments during the notice period that ended 4:00 PM Alaska Standard Time on July 30, 2021, are eligible to request reconsideration of this final best interest decision under 11 AAC 99.060(b) within 20 calendar days after publication of the notice or receipt of the final decision, whichever is earlier. A request for reconsideration must be submitted in writing to the Executive Director and must clearly follow submission requirements outlined under 11 AAC 02.030. This request must also 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. Before filing an appeal to the Superior Court under AS 44.62.560, a person must be eligible to request and must actually request reconsideration within the time specified above.

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**APPROVED:**

DocuSigned by:  
**Jusdi Doucet**  
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Jusdi Doucet  
Executive Director

10/5/2021

\_\_\_\_\_  
Date

**ATTACHMENT A**  
Parcel and Legal Descriptions

<u>Parcel No.</u>	<u>Legal Description</u>	<u>Acres</u>	<u>Parcel No.</u>	<u>Legal Description</u>	<u>Acres</u>
<b><u>North Fox/Pedro Dome/Cleary Summit Area</u></b>					
<b>F70015</b>	Unencumbered Trust Lands within F002N001E Sections 2-11, excluding MHT 9400275, MHT 9400719 and MHT 9400722 and; F003N001E Sec 26 and 35 excluding MHT 9400444 and; F002N001E Sec 1 and; F002N002E Sec 1-4 excluding MHT 9400275 and; F002N003E Section 4: NW1/4NW1/4, SW1/4NW1/4	5043	<b>F20287*</b>	F002N001E Sec 18: SE1/4SE1/4 <sup>1</sup>	40.0
<b>F20289*</b>	Portions of: F002N001E Sec 19 NW1/4NW1/4, NE1/4NW1/4 excluding LLO 12, USMS 1715, SE1/4NW1/4 excluding AKFF 063799, USMS 1716, NW1/4NE1/4 excluding USMS 1715, LL12, SW1/4NE1/4 excluding AKFF 063802	290.23	<b>F20290</b>	F002N001E Sec 20: W1/2NW1/4, NW1/4SW1/4 <sup>1</sup>	120.0
<b>F20286*</b>	F002N001W Sec 18: LOTS 1 TO 5, INCLUSIVE, NW1/4NE1/4, E1/2NW1/4, NE1/4SW1/4 <sup>1</sup>	340.01	<b>F20298*</b>	Portions of F002N001E Sec 30 inclusive of that portion lying east of the Elliott Highway, NE1/4NW1/4 excluding LLO 39, USMS 1618, W1/2NE1/4, SE1/4NW1/4, NE1/4NE1/4SW1/4 <sup>1</sup>	165.2
<b>F20288</b>	F002N001E Sec 19; Lot 4 <sup>1</sup>	35.83			
<b>TOTAL APPROXIMATE ACREAGE</b>					<b>6034.27</b>

\*Denotes parcels with a known current or historic mineral encumbrance.

<sup>1</sup> ACCORDING TO THE SURVEY MAP EXAMINED AND APPROVED BY THE U.S. SURVEYOR GENERAL'S OFFICE IN JUNEAU, ALASKA ON FEBRUARY 28, 1914, AND THE SUPPLEMENTAL PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT IN WASHINGTON, D.C. ON OCTOBER 20, 1970.