



Position Paper: Matanuska Valley Coal Lease (October 2011)

Executive Summary

On April 21, 2011, the Mental Health Trust Land Office (TLO), on behalf of the Alaska Mental Health Trust Authority (The Trust) began its administrative process to lease Trust land for potential coal development in the Matanuska Valley. This proposed coal lease offering could result in significant long-term revenue to support programs and services for Trust beneficiaries. The process included review and approval by The Trust's Resource Management Committee and authorization May 10, 2011, by The Trust's Board of Trustees. Public notice of the competitive offering was issued October 7, 2011.

The offering covers approximately 11,487 acres, all of which are in the Matanuska Valley Moose Range. The Trust owns the subsurface rights to the land and the State owns the surface rights. Land in the Range is managed by the Department of Natural Resources (DNR) with the concurrence of the Department of Fish and Game under a plan that allows "mineral and coal entry and development."¹ Permitting for coal exploration and development in Alaska is the responsibility of the Division of Mining, Land, and Water within DNR.²

The tract being offered is believed to contain high-quality bituminous coal. The successful applicant will likely launch an exploration project to determine the location and commercial viability of the coal. The competitive lease offering closes December 16, 2011, and the successful applicant will be announced by December 30, 2011.

The Trust is a state corporation that administers the Alaska Mental Health Trust, a perpetual trust managed on behalf of people with mental illness, developmental disabilities, chronic alcoholism and other substance related disorders, Alzheimer's disease and related dementia, and traumatic brain injury. The ultimate goal for issuing any coal or mineral lease by the TLO is to obtain royalty payments for the value of the resource and to provide a long-term revenue stream for The Trust and its beneficiaries.

Background

The Trust's ownership of land in the Matanuska Valley is rich in history.

In July 1956, Congress passed the Alaska Mental Health Enabling Act that allowed the Territory of Alaska to select one million acres of land to administer as a perpetual trust. Income and proceeds from this land were intended to fund mental health programs and services in Alaska. Following statehood, the land was patented to the State of Alaska in 1962.

In 1978, the legislature re-designated mental health trust land as general grant land and provided an alternative funding mechanism for mental health programs. However, the appropriations authorized in this legislation were never made. In 1982, mental health advocates sued the state (*Weiss v. State of Alaska*) to return the land to its former trust status and to gain monetary compensation for the trust.

In October 1985, the Alaska Supreme Court invalidated the 1978 legislation and returned original mental health trust land to trust status and ordered compensation for land that had been inappropriately sold or granted to individuals and local governments. However, the State Supreme Court did not resolve the issue of the disposition

¹ http://dnr.alaska.gov/mlw/planning/mgtplans/mat_valley/index.htm

² <http://dnr.alaska.gov/mlw/mining/coal/>

of land that had been legislatively designated, including trust land within the Matanuska Valley Moose Range. The case was remanded to the Superior Court for final clarification and a settlement was reached in 1994.

The 1994 Mental Health Settlement Agreement and associated legislation included \$200 million in cash and mandated the reconstitution of all available original Trust land and the conveyance of that land (and other substitute land) to the Alaska Mental Health Trust Authority. Section II(b) of the Settlement Agreement specified the conveyance of the mineral estate within the Matanuska Valley Moose Range to The Trust. From this history, it is evident that, except from 1978 to 1985, this land has been considered trust land since it was patented to the state in 1962 under the Mental Health Enabling Act.

The proposed coal lease area falls under two State management plans that were developed through the public process and specify uses for the land. Both plans allow for coal exploration and development in the area. These plans pertain to the Matanuska Valley Moose Range and the Susitna Area Plan.

The Matanuska Valley Moose Range is a legislatively designated area created in 1984, during the time when trust lands were managed as general state land. The implementing legislation³ required that the Department of Natural Resources (DNR) develop and adopt a management plan for the Moose Range with the concurrence of the Department of Fish and Game (DF&G). Both DNR and DF&G were required to comply with this management plan. The management plan was adopted in October 1986, after a public process that involved various state agencies as well as participation by the Matanuska-Susitna Borough and local residents.

The Moose Range was created “in response to the increasing need to utilize yet protect the areas’ (natural) resources.” The intent of the legislation was to ensure that the lands are managed to maintain, improve, and enhance moose populations and habitat and other wildlife resources of the area, and to perpetuate multiple use of the area, including fishing, grazing, forest management, hunting, trapping, and "mineral and coal entry and development." One section in the Moose Range Management Plan⁴ is devoted entirely to the development of subsurface resources. A stated goal of the Plan is to “allow and encourage development of coal and other subsurface resources.” It goes on to say that “coal in the Moose Range is among the highest quality found in Alaska. This coal compares favorably with that found in the Lower 48.” The Management Plan noted that “by offering coal, the state is giving the private sector the opportunity to evaluate the coal resource with regard to the market” and went on to state that “when coal leases are offered within the Moose Range, they will be in response to industry interest.”

The proposed coal lease area also falls within the area covered by the Susitna Area Plan,⁵ which is a DNR management plan that was developed jointly with the Matanuska-Susitna Borough using an interagency planning team and a public participation process. One of the stated primary goals of the Susitna Area Plan is to "allow forestry, agriculture, mining, and other types of development to occur but manage these uses to minimize environmental impacts." The proposed coal leasing area is located within the Glenn Highway sub-region of this plan. The plan notes that this sub-region possesses an abundance of natural resources, including high-value mineral, coal, and other energy resources.

Both of these State management plans recognize the potential for coal development in this area, and they recognize that any coal exploration and development in this area, as in any area of the state, will be regulated under the strict guidelines of the Alaska Surface Mining Control and Reclamation Act (ASMCRA), federal clean air and water laws, and a variety of other federal, state and local laws. Because of this, no additional regulatory guidelines were imposed by the management plans.

In addition to the referenced State management plans, the proposed lease area is located within the Matanuska-Susitna Borough and falls within the area encompassed by the Chickaloon Comprehensive Plan.⁶ This plan

³ [AS 16.20.350\(b\)](#)

⁴ http://dnr.alaska.gov/mlw/planning/mgtplans/mat_valley/index.htm

⁵ <http://dnr.alaska.gov/mlw/planning/areaplans/susitna/index.cfm>

⁶ http://www.matsugov.us/docman/doc_details/904-chickaloon-comprehensive-plan

recognizes the existence of the previously mentioned State management plans and the provisions pertaining to the potential for coal development in the area. It also recognizes that the large land owners in the area, including the federal government, Chickaloon-Moose Creek Native Association, the Borough, the State, and The Trust, manage their lands according to priorities set by their governing bodies. This plan states that “it is generally agreed that commercial development can co-exist with the residential and recreational land use as long as the commercial development does not disrupt the quiet neighborhoods, but industrial land uses adjacent to residential neighborhoods are not compatible.” It also lists a number of concerns of area residents regarding large-scale development projects, including, among other things, proper public notice, screening, buffering, setbacks, and protection of air and water. These issues will be addressed by the regulatory agencies and the successful lessee during the permitting process, if the project advances to that stage.

Trust Land Office Obligations

The Trust’s land and other natural resources are managed in accordance with the federal Alaska Mental Health Enabling Act of 1956, the terms of the Settlement Agreement from the class-action suit *Weiss v State of Alaska*, and state regulations regarding the TLO adopted in 1997.⁷ The regulations stipulate that Trust land and other non-cash assets are managed separately from other State lands, solely in the best interest of the Alaska Mental Health Trust and its beneficiaries. The regulations require the TLO to:

- Protect and enhance the long-term productivity of Trust land;
- Maximize long-term revenue from Trust land;
- Encourage a diversity of revenue-producing uses of Trust land; and
- Manage Trust land prudently, efficiently and with accountability to The Trust and its beneficiaries.

In addition to the regulations, the TLO manages Trust land and other natural resources in accordance with a long-term asset management strategy approved by the Alaska Mental Health Trust Authority Board of Trustees. Revenue-generating uses of Trust land include leasing and sales of land; commercial timber sales; mineral exploration and production; coal, oil and gas exploration and development; and sand, gravel and rock sales.

Annual rent for this lease offering is \$4 per acre per year, adjusted in five-year intervals. The Trust will receive a royalty of 5 percent of the gross value of any coal mined and sold from the land. Royalty revenues generated by the development of Trust land are termed “principal” and must be reinvested by The Trust. They are either deposited into the Mental Health Trust Fund, which is managed on behalf of The Trust by the Alaska Permanent Fund Corporation, or invested by The Trust in other principal assets that will safeguard the value of the asset and/or produce income to The Trust. This ensures that the principal will continue to generate income in perpetuity. The income generated by the Fund makes up a significant portion of the Trust’s annual budget, which funds beneficiary-related programs and services throughout the state. The Trust currently distributes 4.25 percent of the Fund annually. For the fiscal year that began July 1, 2011, The Trust’s budget is approximately \$26 million.

Conclusion

The primary responsibility of the Trust Land Office is to maximize revenue from Trust land over time and to protect and enhance the value of the land. The Matanuska Valley coal lease offering by The Trust authorizes a proposed use that is recognized by and fully compatible with two State management plans that regulate land use in the area. The subsurface rights in the area were specifically conveyed to The Trust for the potential coal and mineral value. To forego the potential to develop this value would violate the intent of the management principles provided under state regulations governing the TLO and the intent of the settlement in *Weiss v. State of Alaska*.

Given the royalty rate established in TLO coal leases, if coal production were to occur on the tract being offered, it could amount to significant long-term revenue for The Trust and its beneficiaries over time. The ultimate goal for issuing any coal or mineral lease by the TLO is to obtain royalty payments for the value of the resource and to provide a long-term revenue stream to fund beneficiary programs.

⁷ [11 AAC 99.010 - 11 AAC 99.990](#)