

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

**BEST INTEREST DECISION
Competitive Coal Lease Offering**

File No. 2012-6

In accordance with AS 38.05.801 and the implementing regulations governing Alaska Mental Health 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 Alaska Mental Health 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 (P.L. 84-830, 70 Stat. 709 [1956]), 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. To offer approximately 11,487 acres of unencumbered Alaska Mental Health Trust subsurface estate for coal leasing. The acreage will be offered through a sealed bid process as provided for below. Acreage not leased as a result of this offering may be offered again at a future date without additional public review, unless the terms and conditions of the subsequent offerings are significantly different than those described in this decision.

II. Applicant/File #. The proposed lease offering is being initiated by the Trust Land Office, and the project is serialized as File No. 2012-6.

III. Subject Property

A. Legal Description. The lands (Subject Lands) affected by this best interest decision are described on Exhibit A and depicted on Exhibit B attached hereto. The Trust owns the mineral estate in the Subject Lands.

B. Site Characteristics/Primary Resource Values. The Subject Lands are located about 50 miles northeast of the city of Anchorage, in an historic coal mining area. The area is in the foothills of the Talkeetna Mountains and is covered by a mixed spruce/birch forest. The Trust owns the mineral estate in the Subject Lands. At

this point, the resource values of interest to the Trust are coal, oil, and gas. The area has been mined in the past for coal and is considered to have reasonably good prospects for additional coal development.

- C. **Historical and Existing Uses of the Property.** The Matanuska Coal Field, which includes the Sutton and Chickaloon areas, has historically been mined for coal. State and private lands in the general area, have been the subject of coal leases for decades. The Wishbone Hill Mine, which is centrally located in the coal field, is currently involved in the permitting process. Although not currently producing, the area mines have in the past provided a higher value coal than the typical sub-bituminous variety being mined at Healy, which is the only area of the state currently supplying coal in the commercial market. Past users of Chickaloon coal included the U.S. Navy, which utilized this coal to power its ships; Jonesville (Sutton) coal has been used at the military bases in Anchorage. Other land uses in this area include hunting, fishing, and trapping for sport and subsistence as well as other recreational activities such as snow machining, four wheeling, and cross-country skiing. The potential for additional development of new sources of high value coal in this area is considered to be good.
- D. **Adjacent Land Use Trends.** There are existing coal leases on state and private lands to the southwest of the area proposed for this competitive coal lease offering. The proposed lease area is at the eastern end of the Matanuska Coal Field. The surrounding area has historically been subject to resource (coal) extraction.
- E. **Existing Plans Affecting Area.** The lands included in this proposed coal lease sale are within the boundaries of the Matanuska-Susitna Borough and the Chickaloon Comprehensive Plan. The existence of coal resources and the potential for development of these resources are recognized in this comprehensive plan. Resource extraction is a permitted use through the conditional use process of the borough. The subject lands are also included within the Matanuska Valley Moose Range Management Plan, which allows for the leasing of lands for development of subsurface resources, including coal and coal exploration and development. In addition, this area is included the Susitna Area Plan, which is administered by the Department of Natural Resources. One of the stated primary goals of this 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 lease area is located within the Glen 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. The successful lessee will be required to comply with all applicable plans and other provisions of law.
- F. **Apparent Highest and Best Use.** The highest and best use of the Subject Lands is exploration and development of the subsurface resources, including the coal, with the hopes of subsequent production.
- G. **Proposal Background.** The Subject Lands proposed for lease include areas that have identified coal deposits. The likelihood exists that commercial deposits of high grade coal exist within the lease area. Markets currently exist for high grade coal, so it is appropriate to make this resource available for leasing at this time.

IV. Terms and Conditions

- A. **Lease Term:** 10 years, extended by production
- B. **Bonus bid:** \$5.00/acre (if applicable)
- C. **Royalty:** 5% of the gross value of coal mined and sold from Trust Land
- D. **Rent:** \$4/acre per year to be adjusted at 5 year intervals by the Producer Price Index.
- E. **Environmental Laws and Considerations.** The successful bidder will be required to enter into a coal lease with the TLO, with the lease requiring full compliance with all applicable mining and environmental laws, including compliance with the Alaska Surface Mining Coal Reclamation Act (ASMCRA), as administered by the Alaska Department of Natural Resources, Division of Mining, Land, and Water.
- F. **Surface Use Conflicts/Damages.** The successful bidder will be required to resolve surface use conflicts and damages, if any, that may arise as a result of their proposed exploration or development activities on lands not owned by the Mental Health Trust, in accordance with applicable provisions of law.

- V. **Asset Management Considerations.** The proposal is consistent with the “Asset Management Strategy for Trust Lands” (“Strategy”), which was developed in consultation with the Trust Authority and provides for the TLO to “focus first on land or resources at the high end of their market values (“best markets”).” Given the current market values of coal, the coal resources affected by this decision are “best market” resources that should be leased now rather than later. Additionally, as noted above, the action is a required “first step” towards generating potentially significant revenues from Trust coal resources, consistent with a key trust land management principle of encouraging a diversity of revenue generating uses of Trust land.

VI. Risk Management Considerations

- A. **Performance Risks:** Performance risks will be minimized through aggressive enforcement of the terms and conditions of the coal lease, including, but not limited to those provisions that address rent and royalty payments, development plan approval and diligent resource development over time.
- B. **Environmental Risks:** Environmental risks will be minimized by ensuring that the lessee complies with applicable environmental laws and is adequately insured and bonded. As previously mentioned, the successful lessee will be required to comply with ASMCRA, which is a very stringent, federally mandated compliance program that focuses on all aspects of coal development and includes significant bonding and insurance provisions to insure compliance.
- C. **Public Concerns:** Historically, significant concern has been expressed about the impact of the 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 will require full compliance with those laws and regulations and, additionally, will contain some operating stipulations that exceed the requirements of those laws and regulations. Finally, compliance with ASMCRA should address most concerns that may arise.

VII. Due Diligence

- A. **Site Inspection:** TLO employees have inspected lands in the vicinity of the Subject Lands. Those inspections plus other Alaska experience of TLO employees provides the TLO with a sufficient understanding of the Subject Lands.
- B. **Valuation:** The terms of this lease are basically the same as the coal leases the TLO has previously issued.
- C. **Contractual Terms and Conditions Review:** The TLO contracted with a private law firm and consulted with the Department of Natural Resources and other public and private land managers for the purposes of developing a lease form that best serves the interest of the Trust.

VIII. Authorities

- A. **Applicable Authority:** AS 38.05.801, 11 AAC 99
- B. **Inconsistency Determination.** 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). The provisions of law deemed inconsistent under 11 AAC 99 include, but are not limited to AS 38.04 (Policy for Use and Classification of State Land Surface), 38.05.35 (e-g) (powers and duties of the director, including those applicable to coal matters), 38.05.945 (public notice), and 38.05.946 (hearings).

In addition to the above, the TLO hereby deems other existing or future provisions of AS 38.05.150 inconsistent with Trust responsibilities accepted by the state under the Alaska Mental Health Enabling Act in the event that the application of said provisions would result in the TLO being required to act in a manner that is not solely in the best interest of the Trust and its beneficiaries as required under 11 AAC 99.020. Examples of specific provisions of AS 38.05.150 that will not apply to the proposed offering include, but are not limited to: AS 38.150(d)(1) pertaining to exploration incentive credits, and (e) referencing the duration of a lease.

Finally, the TLO hereby deems AS 38.05.130, Surface Use Bonding, inconsistent with Trust responsibilities accepted by the state, in that its application would require that the TLO act as a land use regulator at a significant cost and no corresponding benefit to the Trust. Other provisions of existing law provide surface owners with sufficient legal recourse in the event that land use conflicts develop as a result of the proposed coal lease offering.

- IX. **Trust Authority Consultation.** The Board of Trustees of the Trust Authority was consulted and concurred with the proposed action on May 10, 2011.
- X. **Best Interest Decision.** Given the 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.

- XI. **Opportunity for Public Comment.** Public notice of this best interest decision will take place as provided under 11 AAC 99.050. Parties wishing to comment on the best interest decision or parties that believe that the decision should be altered due to an inconsistency with Trust management principles set out in 11 AAC 99.020 must provide written comments to the TLO during the public notice period. If no comments are received by the end of public notice period, this best interest decision will be affirmed and the proposed action taken. (See public notice for specific dates.)

The Executive Director will consider timely written comments. The Executive Director will then, in his or her discretion, modify the decision in whole or in part in response to the public comment, or affirm the final 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.

- XII. **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 best interest decision, and will be eligible to request reconsideration under 11 AAC 99.060 (b) within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier. The Executive Director shall order or deny reconsideration within 20 days after receiving the 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.

- XIII. **Available Documents:** Background information cited herein is on file at the TLO office, located at 2600 Cordova Street, Suite 100, Anchorage, Alaska, 99503. Phone (907) 269-8658.

- XIV. **APPROVED:**



Gregory L. Jones, Executive Director, Trust Land Office

10.6.11
Date

EXHIBIT A
COMPETITIVE COAL LEASING
TRACT A LAND DESCRIPTION

T. 020 N., R. 005 E., SEWARD MERIDIAN, ALASKA

SECTION 5: ALL, UNSURVEYED WITHIN TRACT A;
SECTION 6: W1/2, UNSURVEYED WITHIN TRACT A;
SECTION 7: ALL, UNSURVEYED WITHIN TRACT A;

ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT IN DENVER, COLORADO ON MAY 14, 1980.

SECTION 8: NE1/4, W1/2NE1/4NW1/4, NW1/4NW1/4, S1/2NW1/4, S1/2;
SECTION 12: S1/2;
SECTION 13: ALL;
SECTION 14: ALL;
SECTION 15: ALL;
SECTION 17: ALL;
SECTION 18: Lots 1-4 inclusive, and E1/2, E1/2W1/2;
SECTION 19: Lots 1-4 inclusive, and E1/2, E1/2W1/2;
SECTION 20: ALL;
SECTION 21: S1/2, NW1/4;
SECTION 22: S1/2, NE1/4, S1/2NW1/4, NE1/4NW1/4, E1/2NW1/4NW1/4;
SECTION 23: N1/2, N1/2SW1/4, SE1/4SW1/4, N1/2SE1/4, N1/2SW1/4SE1/4,
W1/2SW1/4SW1/4SE1/4, SE1/4SW1/4SE1/4, SE1/4SE1/4;
SECTION 24: ALL;
SECTION 27: NW1/4;
SECTION 28: N1/2, SW1/4, W1/2SE1/4;
SECTION 29: ALL;
SECTION 30: Lots 1-4 inclusive, and NE1/4, E1/2NW1/4, NE1/4SW1/4,
NW1/4SE1/4;
SECTION 31: Lots 1-4 inclusive, and E1/2SW1/4;
SECTION 32: W1/2NE1/4, NW1/4;

ACCORDING TO THE SURVEY MAP EXAMINED AND APPROVED BY THE U.S. SURVEYOR GENERAL'S OFFICE IN JUNEAU, ALASKA ON MARCH 14, 1916.

CONTAINING 11,487.60 ACRES, MORE OR LESS

EXHIBIT B

Competitive Coal Leasing Tract Map

