

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Conduct a Competitive Mineral Lease Offering

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 conduct a competitive mineral lease offering involving approximately 13,300 acres of unencumbered Trust land in the vicinity of Ophir, Alaska. 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 more particularly described as: all or portions of sections 34 and 35, Township 27 South, Range 12 East; and all or portions of sections 1-4, 9-16, and 21-28, Township 28 South, Range 12 East, Kateel River Meridian, consisting of approximately 13,300 acres (Trust parcel K70185).


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 on December 28, 2015. 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.** 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 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. 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

11-23-15

Date
Publish in Alaska Dispatch News: 11/25/2015
Publish in Fairbanks Daily News-Miner: 11/25/2015

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

**BEST INTEREST DECISION
Ophir Competitive Mineral Lease Offering**

MH Parcel(s) **K70185**

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. To offer approximately 13,300 acres of unencumbered Alaska Mental Health Trust subsurface estate for mineral 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, with the project serialized as TLO 2016-119.

III. Subject Property.

A. Legal Description. The lands affected by this best interest decision are described as follows: All or portions of sections 34 and 35, Township 27 South, Range 12 East; and all or portions of sections 1-4, 9-16, and 21-28, Township 28 South, Range 12 East, (all Kateel River Meridian) containing approximately 13,300

acres of unencumbered Trust lands. The Property is depicted on the attached map identified as Attachment A and made a part of this decision.

- B. Settlement Parcel Number(s).** K70185.
- C. Site Characteristics/Primary Resource Values.** The topography is hilly with elevations ranging from approximately 800 feet to 1800 feet. Bedrock exposures are limited. Slopes vary from gentle to moderately steep. Numerous streams exist in and around the parcel, including Ophir Creek, Yankee Creek, Ganes Creek, Little Creek, Spruce Creek, Anvil Creek, and the Innoko River. Based on publically available information, there are no known physical or ecological features associated with the parcel that would prevent planned mineral exploration activities or subsequent development and production activities, if any.
- D. Historical and Existing Uses of the Property.** This Trust land is known as the Ophir Block (the Block), which is located approximately 36 miles west northwest of McGrath, and south of the Innoko River in the Mt. McKinley Recording District and the organized mining district of Ophir. The town of Ophir, which is just north of the Block, is now abandoned, but serves as a checkpoint for the Iditarod Trail Sled Dog Race. The Block was selected for the Trust because of the potential mineral values associated with the area. It occurs along a mineralized belt (the Tintina Gold Province) which extends across Alaska from beyond the Canadian border on the east, arcs northwest through the Fairbanks Mining District, and then trends southwest toward the Alaska Peninsula. Located within this belt are mineral occurrences such as the Pogo Gold Mine, the Fort Knox Gold Mine, the Livengood prospect, and the Donlin Creek prospect. The area has a long history of placer mining operations. It was the site of a gold rush in 1886, and placer mining operations have continued on a steady basis since the start of the 20th century. The existence of lode deposits is considered probable. During the 1996 field season, USMX accomplished basic reconnaissance exploration of the overall Ophir Block, including surface sampling and mapping work. In 2013, Kinross Gold Mining conducted soil sampling, geological mapping and trenching on the Ophir Block. There are no leases currently in effect for any land within the Block.
- E. Adjacent Land Use Trends.** General State land to the north of the Property contains a considerable number of state mining claims. Active placer mining continues to occur on valid state mining claims in and around the Block. Besides mineral exploration and development, other uses such as hunting and fishing presumably occur in the area.
- F. Previous State Plans/Classifications.** None.
- G. Existing Plans Affecting the Subject Parcel.** There are no federal, state or local management plans that affect the area or would prevent the proposed action. The Block is in an unincorporated area within the Innoko Mining District and the Mt. McKinley Recording District.
- 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.

- IV. Proposal Background.** Consistent with the TLO's fiduciary obligation to maximize revenues from Trust Land over time, the proposed offering is a necessary first step in generating revenues from Trust mineral resources. Industry interest in acquiring mineral properties in Alaska appears to be increasing, so it is anticipated that this lease offering will generate interest in the Block. The land has previously been leased to USMX and Kinross Gold Mining. Although those leases have since been relinquished, they resulted in new exploration data being generated for the Trust.
- V. Terms and Conditions.**
- A. **Lease Term:** Initial term of three years with two 3 year extensions and subsequently held by production, but with a provision to extend the lease on an annual basis by paying a flat fee. The term was established to encourage active exploration and development of the property.
 - B. **Annual Rental:** \$2.00/acre for years 1-3, \$6.00/acre for years 4-6, and \$10.00/acre for years 7-10.
 - C. **Production Royalty:** A sliding scale net royalty based on the price of gold, with a minimum of 1% and ranging to 4.5%, depending on the price of gold and the date of production.
 - D. **Work Commitment:** \$20.00/acre/year for the initial term, \$50.00/acre/year for the first extension, and \$100.00/acre/year for the second extension. Negotiable if the lease is extended beyond the third term.
 - E. **Data:** The TLO will receive copies of all data and information obtained as a result of the lease operations.
 - F. **Allowable Deductions.** Lessee will offset rental payments from production royalties due the Trust in the year those payments are due but cannot reduce royalty payments below 50% at any time.
 - G. **Environmental Laws and Considerations.** Successful bidders will be required to enter into an upland mining lease with the TLO, with the lease requiring full compliance with all applicable environmental laws.
 - H. **Other.** In the event that significant changes occur in the market place or knowledge of the subject lands is significantly improved, the TLO, after consultation with the Trust Authority and public notice, may alter the terms and conditions of subsequent offerings.
- VI. Resource Management Considerations.** The proposal is consistent with the "Resource 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")." Although commodity prices in general are currently at the low end of their market values, international mining companies that are financially stable have expressed interest in acquisition of mineral deposits of the type represented by the Ophir Block. Additionally, as noted above, 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. 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 this area.

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 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 successful lessee will be adequately bonded and insured.
- 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. Further, since this land has been previously offered for lease, there are no known concerns that suggest that the proposed transaction is inconsistent with Trust principles.

IX. Due Diligence.

- A. **Site Inspection.** The area proposed for lease has been viewed by TLO personnel from both the air as well as on the ground.
- B. **Valuation.** The subject lands will be leased pursuant to the terms and conditions of a Trust Upland Mining 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.
- C. **Terms and Conditions Review.** The TLO contracted with a private law firm and other public and private land managers for the purposes of developing terms and a lease form that best serves the interest 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 competitive mineral lease offering 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, Exploration Incentive Credits, and associated regulations. This statute was developed in order to attract the mineral industry to state and private land and 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 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 Water); 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 10/21/2015. The Committee recommended that the proposed transaction be forwarded to the Alaska Mental Health Trust Board of Trustees. The Board was consulted on 11/18/2015, and concurred with the competitive leasing of land at Ophir for mineral exploration and development 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.

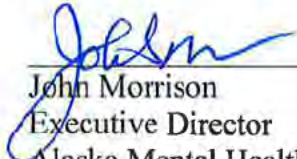
Persons who submit timely written comments will be provided with a copy of the final written decision, and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). The Executive Director 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.

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

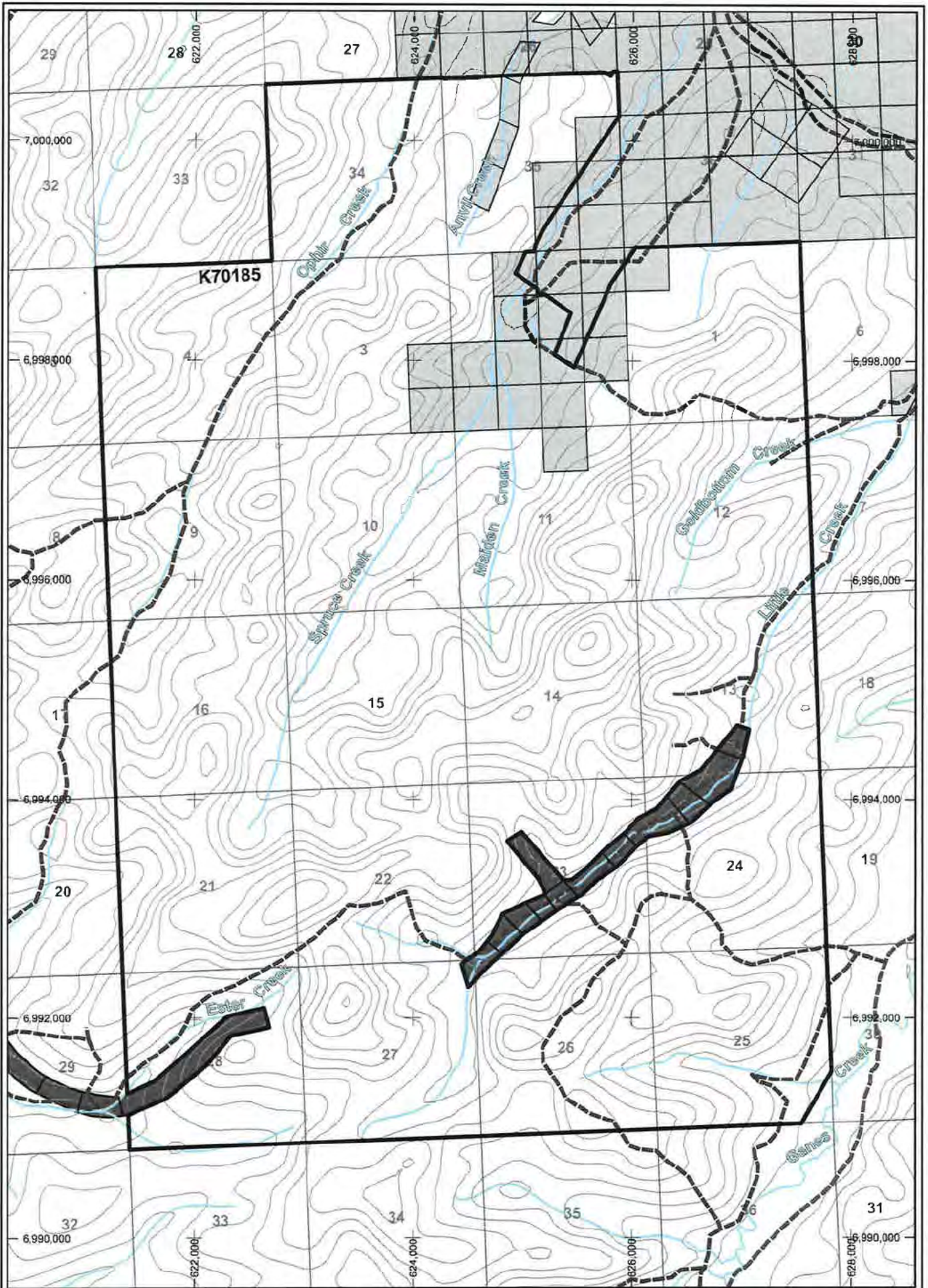
XVI. APPROVED:



John Morrison
Executive Director
Alaska Mental Health Trust Land Office

11-23-15

Date



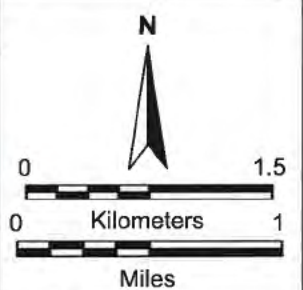
Legend

- Ophir Block, K70185
- Alaska State mining claim
- Patented mining claim
- Elevation contour, 25m interval
- Creek
- Trail

Datum: NAD 83, Zone 4



Trust
Land Office



Attachment A