

December 10, 2018

From: Corri Feige, DNR Commissioner

Subject: Substantial Compliance regarding Certificates of Location, Statements of Annual Labor and Rental payment deadline extensions for mining claims, prospecting sites and leasehold locations under AS 38.05.195(c), AS 38.05.245(a), 11 AAC 86.215(a), 11 AAC 86.220(c), 11 AAC 86.221(d) and 11 AAC 86.410(c)

On November 30, 2018, at approximately 8:30 am, Alaska experienced a large and destructive earthquake in the Anchorage/Matanuska-Susitna area. As a result of the earthquake, the Anchorage and Palmer offices of the Alaska Department of Natural Resources ("DNR"), including the offices of the State Recorder, officially closed almost immediately thereafter. Records Offices elsewhere in the state experienced disruptions in ability to record documents. Governor Bill Walker declared a state of emergency, and the U.S. Postal Service mail system was also significantly disrupted or completely shut down. State offices in Anchorage and Palmer were also officially closed the rest of Friday November 30th, and through Tuesday December 4, 2018.

Because November 30, 2018 was the deadline for filing affidavits of annual labor for mining claims, prospecting sites and leasehold locations, as well as annual rental payments for the labor/rental year ending September 1, 2018, many persons who would have been making those filings and payments were unable to do so by November 30. Due to office closures, and pursuant to 11 AAC 88.130(d), these deadlines were extended until Wednesday, December 5.

However, if a miner had mailed or intended to mail rent, a certificate of location, or an affidavit of labor, the United States Postal Service (USPS) was unable to delivery to state offices Nov. 30-Dec. 4 due to office closures. Further, the USPS was not operating on Wednesday, December 5, the first day state offices were open after the earthquake, as a result of the National Day of Mourning for the late former President George H.W. Bush on December 5. Delivery was thus not possible until Thursday, December 6.

As a result of the highly unusually circumstances at issue here, *unlikely to be repeated*, including an earthquake and related office closures and interruption in state services, followed by a National Day of Morning which further prevented timely delivery of mail, miners were unable to comply with relevant deadlines. Under my authority under AS 38.05.185(b), I hereby determine that any locator who, by mail or otherwise, paid rent, recorded an affidavit of labor, or recorded a certificate of location, by Thursday, December 6, for deadlines that would normally have fallen during the period November 30-Dec. 5, complied as nearly as possible under the circumstances with the recording or payment deadlines *only*. As a result, I hereby grant substantial compliance regarding compliance with deadlines to any miners that recorded affidavits of labor or certificates of location on Thursday, December 6, or had rental payments delivered or otherwise properly submitted by Thursday December 6. In other words, any payments made or recordings

made on Thursday, December 6 are deemed timely, unless there is a conflicting right asserted by another person.

The effective date of this general certificate of compliance is, December 11, 2018 and this certificate does not need to be recorded by individual miners to maintain effect to any particular location. However, individual miners may request a copy of this certificate to be recorded, referencing their specific mining interest, if there are no conflicting rights asserted by another person after December 5, 2018.

A person affected by this decision may request reconsideration, in accordance with 11 AAC 02. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov. Under 11 AAC 02.030, appeals and requests for reconsideration filed under 11 AAC 02 must be accompanied by the fee established in 11 AAC 05.160(d)(6), which has been set at \$200 under the provisions of 11 AAC 05.160 (a) and (b).

If reconsideration is not requested by that date or if the commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on the 31st calendar day after the date of issuance. Failure of the commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.



Corri Feige, DNR Commissioner