

Fact Sheet

Title: Structures On Mining Locations

Can I use my state mining location, mining lease or prospecting site for a cabin or home site? No! The Alaska Statutes and Regulations specify that the use of land or water included within mining properties are to be used only when necessary for mineral prospecting, development, extracting, or basic processing, or for storage of mining equipment. This law is based on the Alaska Constitution which says: “*Surface uses of land by a mineral claimant shall be limited to those necessary for the extraction or basic processing of the mineral deposits, or for both.*” (Art. VIII, Sec. 11, emphasis added). Staking or buying a state mining claim is not a substitute for getting a summer cabin or permanent home site or for a non-mining business site on public land under other state laws and regulations, or by purchase from a private land owner.

But don't I have full possession of the land I staked?

No. A valid state mining location gives you exclusive possession of the locatable minerals only, not the land itself. As noted above, a mineral property owner has use of the surface only for those activities *necessary* for mining. Prior to conducting a mining operation at a scale that might support a determination that a cabin was *necessary*, the proposed mining operation has to be reviewed and approved to assure that other important public resources or uses of land are not unduly or unreasonably damaged. Sometimes the land surface has been transferred to other ownership. Although you have the exclusive right to the minerals you staked, you also have to make arrangements with the owner of the surface before you start to mine.

I plan to run a suction dredge, or do pick and shovel or panning operation or I plan to conduct exploration with some hand or small equipment at my mining claim off and on this summer. It's a two-hour drive from my home. I want a cabin to live in.

The standard in the mining law is *necessity* based on the approved level of mining operation to be conducted, not simple convenience or desirability. A cabin or similar living structure could not be approved for these types of operation.

But what if a structure really is necessary for mining? For example, I plan to operate a year-round mine in a remote area, and we need worker housing for our crew. Can we get authorization for a year-round structure?

You would probably get approval from DNR if your operation is typical of other mine operations in Alaska and the state still owns the surface. *However, no construction of structures or other improvements may occur until the Division of Mining, Land & Water has granted written approval.*

How do I get written approval to use or construct improvements on my mining property? Follow the same process you use to get approval for the mining operation. If you have questions about the type of application required, contact one of the offices listed at the end of this Fact Sheet.

What criteria are used when considering a request for construction of a *necessary* mining structure on a state mineral property and the state also owns the surface?

The Division of Mining, Land & Water follows mining regulation 11 AAC 86.145 when reviewing an application. Factors to be used in approving the structures *necessary* for the proposed mining operation when the state still owns the land surface are:

- access to the property
- the current level of activity
- remoteness of location
- planned level of operations
- security of the operations

Of these criteria, the planned level of mining and the current level of mining are very important factors that

are considered in a request to build *necessary* structures on a state mineral property. Another important factor is how similar mining operations in Alaska are typically done. Other factors, such as water pollution control or protection of fish habitat, may be important when determining where *necessary* mining facilities are located.

Are different factors used by the Division of Mining, Land & Water when the surface of my mineral property is no longer owned by the state?

Yes. The mineral property owner must also make provisions to pay the owner of the surface for any damage that may be caused by the use or development of the minerals. The surface owner, for example, a borough or local community, also may have special conditions in its local land use plan.

If I could get approval to have living accommodations because they are *necessary* for my mining location and the state still owns the surface, can I continue to use them after the mining operation is finished?

No. State law requires that the mining site must be reclaimed. During the seasonal shutdowns for many typical Alaskan mining operations, you might get approval to leave a structure such as an equipment storage shed onsite, but not to continue occupying living quarters during non-mining periods. Or, you might be required to remove the living structure when the mining operation shuts down each fall. This is why approval of living accommodations for small scale mining operations and for mineral exploration are usually limited to tents, tent platforms, or other temporary structures that can readily be dismantled each winter. Even on large mining operations, such as the Valdez Creek Mine, all buildings were removed at the end of mining and the mining area reclaimed.

What if a structure was already on the mining property I staked or leased?

If the surface is still in state ownership, permission to use the structure as a *necessary* part of a proposed mining operation would follow the same criteria for construction of a new structure. However, any use of a structure on state land, including an existing structure, requires prior approval. When you apply for approval to use an existing structure, you will need to show: 1) that the structure is *necessary* and, 2) that you either own or have written permission from the owner to use the structure. When the surface is not owned by the state, you will need permission of the landowner as well as the structure owner before the Division of Mining, Land & Water would consider its use as a *necessary* part of your proposed mining operation.

Why can't I just go ahead and build a cabin on my mineral property without an authorization? You are breaking the law. Alaska mining law is not a substitute for other laws to acquire a cabin or non-mining business site.

Are there other state programs that would allow me to build a structure on state land and live a remote lifestyle?

Yes. Please contact one of DNR's Public Information Centers or the nearest Division of Mining, Land & Water office for more information about state land programs.

Where do I find out more about the State of Alaska mining program?

You may contact one of the following Department of Natural Resources' offices for further information:

Public Information Center
550 West 7th Ave., Suite 1260
Anchorage, AK 99501-3557
Phone: (907) 269-8400
TDD: (907) 269-2259
Fax: (907) 269-8901

Public Information Center
3700 Airport Way
Fairbanks, AK 99709-4699
Phone: (907) 451-2705
TDD: (907) 451-2770
Fax: (907) 451-2751

Public Information Center
400 Willoughby Avenue, 4th Flr
Juneau, AK 99801
Phone: (907) 465-3400
Fax: (907) 586-2954