

**STATE OF ALASKA
DEPARTMENT OF NATURAL
RESOURCES
DIVISION OF FORESTRY**



FAIRBANKS-DELTA AREA FORESTRY

**FINAL BEST INTEREST FINDING AND
DECISION FOR
HEALY LAKE FIRE SALVAGE**

JANUARY 2017

I. PROPOSED ACTION

DOF is proposing to offer for sale approximately 452 acres of burned white spruce, birch, balsam poplar, and aspen sawtimber and fuelwood from state lands within the 2015 Healy Lake Fire perimeter, roughly 27 air miles southeast of Delta Junction, Alaska. The volume to be offered totals approximately 510,760 cubic feet (CF). DOF would sell the timber in a combination of competitive and negotiated sales for commercial use. Personal use firewood permit harvests will be facilitated through the commercial operations constructing and maintaining access to the area over the winter season(s).

The management objectives for the proposed timber sales are:

- Harvest the commercial sawtimber and fuelwood before significant loss occurs.
- Return the site to a young productive mixed stand forest to include balsam poplar, birch, aspen, and white spruce.
- Provide timber products for the industry and the state and local economy.
- Provide accessible firewood for the residential heating needs of local residents.

II. STATUTORY AND REGULATORY AUTHORITY

The Division is taking this action under the authority of

- AS 38.05.035(e) Best Interest Finding;
- AS 38.05.110-120 and 11 AAC 71, Timber Sale Statutes and Regulations; and
- AS 41.17.010-950 and 11 AAC 95 Forest Resources and Practices Statutes and Regulations.

III. ADMINISTRATIVE RECORD

The Division will maintain an administrative record regarding the decision of whether or not to proceed with the action as proposed. This record will be maintained at the DOF's Delta Office filed as ADL-420602.

IV. SCOPE OF DECISION

This final best interest finding (BIF) completes step three of a six-step process to design, sell, and administer timber sales. This BIF covers the sale of approximately 452 acres of burned timber on state land within the perimeter of the 11,473-acre Healy Lake Fire. The following list summarizes the overall process:

Step 1: Regional planning. The Department of Natural Resources (DNR) develops area plans and state forest management plans to designate appropriate uses for state land, classify the land accordingly, and establish management guidelines for multiple use. These plans determine where timber sales are an allowed use, and what other uses must be considered when designing and implementing sales. Subsequent land use decisions must be consistent with the area plans. The area in this PBIF is covered by the Tanana Valley State Forest Management Plan. The finding also considers the Inter-agency Wildland Fire Management Plan. There are no Community Wildfire Protection Plans in this area. The proposed area is not within a municipality, therefore no municipal plans apply.

Step 2: Best Interest Finding. A best interest finding is the decision document that:

- Establishes the overall area within which the timber sale may occur,
- Determines the amount of timber that will be offered for sale and the duration of the sale,
- Sets the overall harvest and reforestation strategy for the sale area,
- Determines whether the sale proposal complies with the Alaska Constitutional requirement to manage for sustained yield by evaluating the amount of timber in the sale and the annual allowable cut for the affected area,
- Selects the appropriate method of sale (i.e., competitive or negotiated sale), and
- Determines the appraisal method that will be used to determine the sale price.

This document is the final BIF for the Healy Lake Fire Salvage. A person affected by the final decision who provided timely written comment or public hearing testimony on the preliminary decision may appeal it, in accordance with 11 AAC 02.

DOF issued a Preliminary BIF covering the decision to sell approximately 452 acres of burned white spruce, birch, balsam poplar, and aspen sawtimber and fuelwood from state lands roughly 27 air miles southeast of Delta Junction, Alaska in a combination of competitive and negotiated sales for commercial use. DOF considered all written comments received during the 30-day review period. Responses to the comments are listed in this document.

Because of fire damage and the risk of additional damage from wood boring black-spotted sawyer beetles (see Stand Silviculture section, p. 6), this BIF determines that these salvage sales are emergency sales with respect to AS 38.05.113(c) as defined by 11 AAC 71.010(d) and must be expedited to avoid loss of market value. Therefore, these salvage sales within the area covered by this BIF do not have to appear on a Five-Year Schedule of Timber Sales prior to sale. However, whenever feasible, DOF will include sales under this BIF in the Five-year Schedule for the Delta Area.

Step 3: Forest Land Use Plans (AS 38.05.112). Prior to authorizing harvest of timber on any area greater than 10 acres, the DOF must adopt a site-specific Forest Land Use Plan (FLUP) for the harvest area. DOF will prepare FLUPs for harvest areas within the overall sale area covered by this best interest finding. FLUPs specify the site, size, timing, and harvest methods for harvest unit within the sale area. FLUPs also address site-specific requirements for access construction and maintenance, reforestation, and multiple use management. Draft FLUPs will be based on additional field work, agency and community consultation, and site-specific analyses by the DOF, and will be subject to public and agency review.

Step 4: Timber sales and contracts. Following adoption of the final best interest finding, and completion of the FLUPs, DOF will offer the timber for sale by auctioning competitive sales and negotiating some sales with purchasers. The Division will sign a contract with the winning bidder for each sale. The contract will include stipulations to ensure compliance with the best interest finding, FLUP, and statutory requirements.

Step 5: Sale administration. DOF administers timber sales and conducts field inspections to ensure compliance with the final best interest finding, FLUP, timber sale contract, and applicable laws, including the Alaska Forest Resources and Practices Act and Regulations (AS 41.17 and 11 AAC 95), and forest management statutes and regulations in AS 38.05 and 11 AAC 71.

V. PROJECT LOCATION, LAND STATUS, AND DESCRIPTION

A. Location

This BIF covers 452 acres of burned State land within the 11,473 acre perimeter of the 2015 Healy Lake Fire. The burn area is bounded by the Tanana River (south and west) and Mendas Cha-ag Native Corporation lands (north). The State owns 935 acres in the burn area. The 10,539 acres of Mendas Cha-ag Native Corporation lands, inclusive to the fire perimeter, is excluded from the sale proposal.

The project is located between the Tanana River and Healy Lake within Sections 3, 4, 5, 6, 7, and 8 of Township 12 South, Range 15 East and Section 36 of Township 11 South, Range 14 East, Fairbanks Meridian, Alaska.

This area is found on USGS quads: Mt. Hayes D-2 (see attached maps).

B. Title status

The timber salvage area is within the TVSF on General Selection land within two townships. There is no title restrictions on the parcels proposed for salvage harvest. The acquisition authority and land classification are as follows;

Township, Range, Meridian	Acquisition Authority	Classification Order	Land Use Plan
T 12 S, R 15 E, F	GS-809	NC-82-065 Forest	TVSF
T 11 S, R 14 E, F	GS-795	NC-82-065 Forest	TVSF

C. Land use planning, classification, and management intent

The proposed area is within the Tanana Valley State Forest subunit 10C. There are no specific restrictions stated in the TVSF management plan that are applicable to this proposed project. Guidelines for special management zones do apply for the Tanana River including side channels, sloughs, and backwaters. The area is accessed using secondary roads via the Cummings Road. The proposed harvest units are designed to be consistent with the intent of the plan. The area is open to subsurface use and mineral entry.

The Interagency Fire Management Plan includes these lands in the "Full" protection category.

No municipal plans apply – this area is not within a municipality.

D. Current access and land use:

This area is currently accessed via a winter crossing of the Tanana River in the area of Cummings Landing located at 6 mile Cummings Road. The proposed fire salvage areas are both west and east of the Tanana River.

Recreational use of the proposed timber salvage areas occurs primarily in winter due to seasonality of the access. Winter roads that were constructed during previous harvest activities provide primary access. Residents of the Cummings Road area use the winter road system primarily for snow mobile access of the area.

A few trap lines and recreational trails are within the general vicinity. Local residents and hunters from throughout the state use this area for sport hunting. Sport fishing occurs on Healy Lake and along the Tanana River.

E. Background and description of proposal

1. Background: The Healy Lake Fire burned 11,473 acres of state and native corporation land east of Delta Junction in the summer of 2015. Following the fire, DOF reviewed existing land use plans, considered markets for the burned timber, and designed this proposal to salvage as much timber as possible from state land within the burn perimeter, while protecting the fish, wildlife, and water resources, and avoiding impacts to local access, recreation uses and archaeological sites.
2. Timber volume and sustained yield: The project area has an estimated volume of 510,760 cubic feet of white spruce, birch, and aspen sawtimber and fuelwood on approximately 452 acres of land. The Delta Area Annual Allowable Cut (AAC) is calculated at approximately 5,000 acres of harvest annually. The Sustained Yield (SY) volume is calculated at over 5,200,000 cubic feet annually. Harvest duration for this proposal is expected to occur over a 10 year period. This action alone or in combination with timber sales (proposed or sold) will not exceed the Delta AAC or SY volume due to the proposed harvest duration or anticipated sale schedule.
3. Harvest unit design: Unit size is anticipated to range between 0.5 acres and 100 acres. Sale unit boundaries will be located along the fire perimeter and naturally occurring vegetative type changes within the burn. A 330-foot buffer, external to the fire perimeter, may be harvested to include fire damaged timber or to provide strategic management options to minimize pest or windthrow mortality.

The sale areas will be designed to encourage harvest of all species and sizes of burned trees within the designated harvest units. All harvests, commercial and personal use, shall be managed on the landscape with the intent to minimize impacts to the designated uses listed in the Tanana Valley State Forest Management Plan. Harvests will be subject to the Forest Resources and Practices Act and regulations.

4. Reforestation: Passive, natural, reforestation will be used due to expected recolonization of the area by hardwood species. Birch is expected to establish in the upland locations and aspen and balsam poplar will recolonize the lowland and moist sites. White and black spruce will naturally regenerate as well, but due to their initial slower growth these trees will remain in the understory until they reach adequate size and

are able to compete with the hardwoods. This methodology has been proven to be a successful burn area reforestation strategy in the Delta area as evidenced on the Carla Lake, Gilles Creek, and Camp Creek fires.

Supplemental planting of burn areas is typical where inadequate seed banks are known to exist or a species conversion is used in order to mitigate an areas fuel hazard rating. Neither of these needs exist in the proposed area.

5. New access design and construction: Roads constructed during timber harvest operations are designed and utilized as temporary access routes to conduct specific silvicultural activities on the land. Ancillary use of the roads by the general public occurs, but must be managed as a matter of safety during silvicultural operations or to protect the resource values of the area. Proposed forest access roads will initially be constructed to a secondary winter road standard. The roads will be constructed by removing the trees and vegetative mat. Roads will be constructed using cut and fill excavation with earth moving equipment producing running surfaces 12-16 feet wide.

Proposed road locations are generally on flat and/or rolling topography with low potential to erode during spring break-up and rainy weather. Roads will be built and maintained consistent with the best management practices in the Alaska Forest Resources and Practices regulations (11 AAC 95) and Tanana Valley State Forest Management Plan (Appendix A).

Timber sale contracts will require measures to prevent erosion including installation of water bars, sediment barriers, fiber mats, and placement of culverts where needed. The proposed access routes do not cross any streams, but will cross seasonal drainages. Culverts, rolling dips or water bars will be placed or constructed where necessary to prevent erosion.

Secondary access roads that could be used for future harvests of unburned timber will be maintained as inactive roads following initial harvesting. These roads will be closed to highway vehicles at the beginning of the road and maintained to prevent erosion. Any roads that will not be necessary for future timber sales will be permanently closed after reforestation efforts are completed. Road maintenance and road closure actions will be conducted consistent with the best management practices in the Forest Resources and Practices regulations.

DOF proposes to extend access by constructing spur roads from the existing winter roads. The attached map shows approximately 3 miles of preexisting road and 4 mile of proposed new road. It's doubtful that all areas will be accessed and harvested.

Preliminary information regarding the burned area indicates access development for harvesting on terraces north and east of the Tanana River. Final mainline road locations will be determined after further ground and aerial reconnaissance associated with specific FLUP(s) development. Access will be designed and operated to not hinder the use of any public trail easements.

6. Appraisal method: The units will be a mix of commercial timber sales and private personal use cutting areas. Commercial sales will be based on transactional evidence and market demand and DOF will apply a value for those products. Personal use cutting will utilize the existing Delta Area Firewood Online Permitting System. DOF will appraise the timber value in compliance with 11 AAC 71.092.

F. Resources and management

1. Timber stand composition and structure: The forest stands to be salvaged were a mixture of fully mature white spruce, aspen and birch 31% sawtimber and 69% poletimber prior to the 2015 fire. There were some stands of young white spruce, birch, balsam poplar, and aspen, but most of the burned area had mature forested stands. An estimated 57% of the stands were composed of hardwood species, 33% spruce, and 10% mixed spruce hardwood. The forested stands surrounding the proposed project area comprise a variety of stand mixtures including mature white spruce, black spruce, birch, and aspen.
2. Stand silviculture: The fire burned from June 16th through August 23, 2015. White spruce damaged by fire before August attracts infestations of the large white spotted sawyer. These are large black flying insects with a small white patch on the back behind the head and long black antenna. They are common in the Tanana Basin during July. The beetles can be easily heard boring holes to lay larvae that will hatch next summer. White spruce with large beetle infestations will be riddled with 3/8" sized holes in the wood, devaluing its marketability by fall of the next year. Due to the late fire occurrence, damage from these boring insects may be minimal in 2015 but damage is certain in the summer of 2016, reducing the white spruce to fuelwood use exclusively.

A mature stand of burned spruce or mixed spruce and aspen/birch typically reforests to aspen or birch as the primary species after the fire. Birch and aspen stands typically recolonize burned areas within 4-6 years. The mechanics of how white spruce reforests after a fire are not well understood. In this fire, there were many proposed salvage areas that had a low intensity ground fire or "under burn" and some that burned intensely with crown fires.

3. Topography and Soils: The proposed project area is on the flood plain and uplands that extend from the 1,000-1200 foot elevation in the Tanana River drainage to 1,750-foot elevation ridge tops. Slopes within the project vary from flat to 40% with the average being about 2%. Soils are sandy loess loams near the surface over glacial till and gravels that start about 0.5-2 feet below the surface.
4. Agriculture: Agricultural lands and uses occur on private lands south of the salvage area. There is no current agriculture activity in the area and activities in the sale units are not expected to affect these agricultural uses.

5. Wildlife habitat and harvest: Most common species of wildlife that are normally found in interior Alaska forests inhabited the area prior to the fire. Large animal species may be displaced from the burn areas until sufficient hiding, thermal cover and sufficient browse is available. Timber harvest in burn areas is not expected to diminish available cover for these species. There is a potential for moose forage on hardwood regeneration in fall (leave stripping) and winter (browsing), which in extreme cases can accelerate or facilitate transition from hardwoods to conifers possibly reducing biomass yield in the short term. Timber harvest may reopen areas for hunting access as most of the burn areas are covered by wind blown trees.

Small animal species typically recolonize a burn area quickly. Long-time trappers have stated that some of the best trapping can occur in burn areas, especially for lynx and fox due to the resulting high vole populations. Grouse and other birds use new growth in the burn areas for food and habitat as well.

Hunting and trapping occur in the area. Active trap lines are located in the vicinity of the proposed salvage areas. Historically, there has been significant hunting activity in the area due to relatively high moose density and close proximity to Delta Junction.

6. Fish habitat and harvest, water resources, and water quality: The proposed sale will be designed and managed to protect fish habitat and water quality in compliance with the Forest Resources and Practices Act and regulations (AS 41.17 and 11 AAC 95). A 100 foot buffer will be maintained along sloughs and channels of the Tanana River, a Type III-A waterbody, with the intent to maintain a short and long term source of large woody debris.
7. Recreation, tourism, and scenic resources: General recreational use of the proposed timber salvage areas is low or non-existent during the summer months due to the seasonality of the access. Winter recreational use of the area is low to moderate. Access to the project area is available due to winter roads that were constructed during previous harvest activities. Local residents use the winter roads by snow mobile.

Multiple trap lines and recreational trails are within the general vicinity. If any trails are encountered during road construction contractors will provide for trail crossings as well as post warning signs along the road.

There is no known tourism in the proposed salvage area.

8. Cultural Resources: DOF has been working with the State Historic Preservation Officer (SHPO) to identify and avoid known cultural, historic or prehistoric sites in planning the proposed access routes and salvage areas. If additional archaeological sites are identified, proposed salvage areas and road locations will be appropriately adjusted to avoid conflicts. If any historic or archaeological sites are encountered during road construction or harvest activities, DOF will immediately inform SHPO and take action to protect the findings.

9. Subsurface Resources: There are no mining claims in the proposed project area.

G. Costs and benefits

No significant negative economic effects are anticipated upon the timber markets, local or regional, as result of this proposed action. Salvage of the proposed timber volume may provide a short-term benefit to the local economy due to the availability of low-cost fuel for home heating and jobs in timber harvesting.

Public use firewood demand on this area is expected to be quite high during the winter access period. The Division will continue to issue general use permits and designate areas for personal use sales within the salvage area boundary. Commercial timber salvage harvest operations will provide winter road maintenance facilitating public access to the salvage areas.

DOF will need to monitor firewood harvesting operations because of the strong possibility of illegal harvesting. DOF may have to close roads that are shared by commercial and personal use sales with temporary gates to prevent unauthorized harvest.

VI. PUBLIC REVIEW

The preliminary best interest finding and decision were publicly noticed in compliance with AS 38.05.945. Notice was posted on the Alaska Online Public Notice System, the DOF website, and physical/online mailing lists.

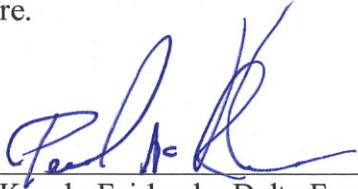
VII. PUBLIC NOTICE

This BIF was publicly noticed in compliance with AS 38.05.945. Notice was posted on the Alaska Online Public Notice System (<http://aws.state.ak.us/OnlinePublicNotices/>) the Forestry Timber website (<http://forestry.alaska.gov/timber/delta.htm#contract>), and the Delta Wind newspaper.

VIII. DISCUSSION AND FINAL FINDING AND DECISION

After due consideration of all pertinent information and alternatives, the DNR has reached the following decision: To offer for sale approximately 452 acres of burned white spruce, birch, balsam poplar, and aspen sawtimber and fuelwood from state lands within the 2015 Healy Lake Fire perimeter, roughly 27 air miles southeast of Delta Junction, Alaska. This alternative meets the objectives for timber salvage prior to loss of economic value, returning the site to a young productive mixed forest, providing commercial timber products. It will also provide fuelwood to the local area and commercial dry firewood to the Delta/Fairbanks markets. Additional employment opportunities will occur associated with salvage operations saw milling and value-added processing.

In addition, the Division finds that salvage sales within this area are emergency sales with respect to AS 38.05.113 (Five-year Schedule of Timber Sales) as defined by 11 AAC 71.010(d). These sales must be expedited to avoid loss of market value of timber that has been damaged by the fire.



Paul Keech, Fairbanks-Delta Forester
Alaska Division of Forestry

1/30/17
Date

IX. Appeals

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may appeal, in accordance with 11 AAC 02. Any appeal must be received by **2/10/2017** and may be mailed or delivered to Andrew T. Mack, 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. If no appeal is filed by that date, this decision goes into effect as a final order and decision on February 7, 2017. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 is enclosed.

If you have any questions, please contact Kevin Meany, Fairbanks-Delta Resource Forester, kev-in.meany@alaska.gov, (907) 451-2602.

APPEAL AND REQUEST FOR RECONSIDERATION REGULATIONS

Note: "Appeal" means a request to the commissioner to review a decision that the commissioner did not sign or cosign. "Request for reconsideration" means a petition or request to the commissioner to review an original decision that the commissioner signed or cosigned.

TITLE 11. NATURAL RESOURCES CHAPTER 02. APPEALS.

11 AAC 02.010. APPLICABILITY AND ELIGIBILITY. (a) This chapter sets out the administrative review procedure available to a person affected by a decision of the department. If a statute or a provision of this title prescribes a different procedure with respect to a particular decision, that procedure must be followed when it conflicts with this chapter.

(b) Unless a statute does not permit an appeal, an applicant is eligible to appeal or request reconsideration of the department's decision on the application. An applicant is eligible to participate in any appeal or request for reconsideration filed by any other eligible party.

(c) If a statute restricts eligibility to appeal or request reconsideration of a decision to those who have provided timely written comment or public hearing testimony on the decision, the department will give notice of that eligibility restriction as part of its public notice announcing the opportunity to comment.

(d) If the department gives public notice and allows a public comment period of at least 30 days on a proposed action, and if no statute requires opportunity for public comment, the department may re-

strict eligibility to appeal or request reconsideration to those who have provided timely written comment or public hearing testimony on the proposed action by including notice of the restriction as part of its public notice announcing the opportunity to comment.

(e) An eligible person affected by a decision of the department that the commissioner did not sign or cosign may appeal the decision to the commissioner within the period set by 11 AAC 02.040.

(f) An eligible person affected by a decision of the department that the commissioner signed or cosigned may request the commissioner's reconsideration within the period set by 11 AAC 02.040.

(g) A person may not both appeal and request reconsideration of a decision. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 38.05.020	AS 38.50.160	AS 44.37.011
AS 29.65.050	AS 38.05.035	AS 41.15.020	AS 46.15.020
AS 29.65.120	AS 38.08.110	AS 41.17.055	AS 46.17.030
AS 38.04.900	AS 38.09.110	AS 41.21.020	

11 AAC 02.015. COMBINED DECISIONS. (a) When the department issues a combined decision that is both a final disposal decision under AS 38.05.035(e) and any other decision, including a disposal decision combined with a land use plan decision, or a disposal decision to grant certain applications combined with a decision to deny others, the appeal process set out for a disposal decision in AS 38.05.035(i) - (m) and this chapter applies to the combined decision.

(b) Repealed 12/27/2012. (Eff. 9/19/2001, Register 159; am 12/27/2012, Register 204)

Authority:

AS 29.65.050	AS 38.04.900	AS 38.05.035	AS 38.09.110
AS 29.65.120	AS 38.05.020	AS 38.08.110	AS 38.50.160

11 AAC 02.020. FINALITY OF A DECISION FOR PURPOSES OF APPEAL TO COURT. (a) Unless otherwise provided in a statute or a provision of this title, an eligible person must first either appeal or request reconsideration of a decision in accordance with this chapter before appealing a decision to superior court.

(b) The commissioner's decision on appeal is the final administrative order and decision of the department for purposes of appeal to the superior court.

(c) The commissioner may order or deny a request for reconsideration within 30 calendar days after issuance of the decision, as determined under 11 AAC 02.040(c)-(e). If the commissioner takes no action during the 30-day period, the request for reconsideration is considered denied. Denial of a request for reconsideration is the final administrative order and decision of the department for purposes of appeal to the superior court.

(d) If the commissioner timely orders reconsideration of the decision, the commissioner may affirm the decision, issue a new or modified decision, or remand the matter to the director for further proceedings. The commissioner's decision, other than a remand decision, is the final administrative order and decision of the department for purposes of appeal to the superior court. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 38.08.110	AS 44.37.011	AS 29.65.120
AS 38.04.900	AS 41.15.020	AS 29.65.050	AS 38.05.020

AS 38.05.035
AS 38.09.110

AS 38.50.160
AS 41.17.055

AS 41.21.020
AS 46.15.020

AS 46.17.030

11 AAC 02.030. FILING AN APPEAL OR REQUEST FOR RECONSIDERATION. (a) An appeal or request for reconsideration under this chapter must

- (1) be in writing;
- (2) be filed by personal service, mail, fax, or electronic mail;
- (3) be signed by the appellant or the appellant's attorney, unless filed by electronic mail; an appeal or request for reconsideration filed by electronic mail must state the name of the person appealing or requesting reconsideration and a single point of contact to which any notice or decision concerning the appeal or request for reconsideration is to be sent;
- (4) be correctly addressed;
- (5) be timely filed in accordance with 11 AAC 02.040;
- (6) specify the case reference number used by the department, if any;
- (7) specify the decision being appealed or for which reconsideration is being requested;
- (8) specify the basis upon which the decision is challenged;
- (9) specify any material facts disputed by the appellant;
- (10) specify the remedy requested by the appellant;
- (11) state the address to which any notice or decision concerning the appeal or request for reconsideration is to be mailed; an appellant may also provide a telephone number where the appellant can be reached during the day or an electronic mail address; an appeal or request for reconsideration filed electronically must state a single address to which any notice or decision concerning the appeal or request for reconsideration is to be mailed;
- (12) identify any other affected agreement, contract, lease, permit, or application by case reference number, if any; and
- (13) include a request for an oral hearing, if desired; in the appeal or request for reconsideration, the appellant may include a request for any special procedures to be used at the hearing; the appeal or request for reconsideration must describe the factual issues to be considered at the hearing.

(b) At the time an appeal is filed, and up until the deadline set out in 11 AAC 02.040(a) to file the appeal, an appellant may submit additional written material in support of the appeal, including evidence or legal argument.

(c) If public notice announcing a comment period of at least 30 days was given before the decision, an appellant may not submit additional written material after the deadline for filing the appeal, unless the appeal meets the requirement of (a) of this section and includes a request for an extension of time, and the department determines that the appellant has shown good cause for an extension. In considering whether the appellant has shown good cause, the department will consider factors including one or more of the following:

- (1) comments already received from the appellant and others;
- (2) whether the additional material is likely to affect the outcome of the appeal;
- (3) whether the additional material could reasonably have been submitted without an extension;
- (4) the length of the extension requested;
- (5) the potential effect of delay if an extension is granted.

(d) If public notice announcing a comment period of at least 30 days was not given before the decision, an appellant may submit additional written material after the deadline for filing the appeal, if the appeal meets the requirements of (a) of this section and includes a notice of intent to file the additional written material. The department must receive the additional written material within 20 days

after the deadline for filing the appeal, unless the appeal also includes a request for an extension of time, and the department determines that the appellant has shown good cause for an extension. In considering whether the appellant has shown good cause, the department will consider factors including one or more of the following:

- (1) comments already received from the appellant and others;
- (2) whether the additional material is likely to affect the outcome of the appeal;
- (3) whether the additional material could reasonably have been submitted without an extension;
- (4) the length of the extension requested;
- (5) the potential effect of delay if an extension is granted.

(e) At the time a request for reconsideration is filed, and up until the deadline to file a request for reconsideration, an appellant may submit additional written material in support of the request for reconsideration, including evidence or legal argument. No additional written material may be submitted after the deadline for filing the request for reconsideration.

(f) If the decision is one described in 11 AAC 02.060(c), an appellant who believes a stay of the decision is justified may ask for a stay as part of the appeal or request for reconsideration. The appellant must include an argument as to why the public interest requires a stay. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 38.05.020	AS 38.50.160	AS 44.37.011
AS 29.65.050	AS 38.05.035	AS 41.15.020	AS 46.15.020
AS 29.65.120	AS 38.08.110	AS 41.17.055	AS 46.17.030
AS 38.04.900	AS 38.09.110	AS 41.21.020	

Editor's note: The address for an appeal or request for reconsideration by personal service and by mail is: Department of Natural Resources, Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501-3561. The number for an appeal or request for reconsideration by fax is: 1-907-269-8918. The electronic mailing address for an appeal or request for reconsideration by electronic mail is: dnr.appeals@alaska.gov.

11 AAC 02.040. TIMELY FILING; ISSUANCE OF DECISION. (a) To be timely filed, an appeal or request for reconsideration must be received by the commissioner's office within 20 calendar days after issuance of the decision, as determined under (c) or (d) of this section, unless another period is set by statute, regulation, or existing contract. If the 20th day falls on a day when the department is officially closed, the appeal or request for reconsideration must be filed by the next working day.

(b) An appeal or request for reconsideration will not be accepted if it is not timely filed.

(c) If the appellant is a person to whom the department delivers a decision by personal service or by certified mail, return receipt requested, issuance occurs when the addressee or the addressee's agent signs for the decision. If the addressee or the addressee's agent neglects or refuses to sign for the certified mail, or if the address that the addressee provided to the department is not correct, issuance by certified mail occurs when the decision is deposited in a United States general or branch post office, enclosed in a postage-paid wrapper or envelope, addressed to the person's current address of record with the department, or to the address specified by the appellant under 11 AAC 02.030(a)(11).

(d) If the appellant is a person to whom the department did not deliver a decision by personal service or certified mail, issuance occurs

- (1) when the department gives public notice of the decision; or

(2) if no public notice is given, when the decision is signed; however, the department may state in the decision a later date of issuance and the corresponding due date for any appeal or request for reconsideration.

(e) The date of issuance constitutes delivery or mailing for purposes of a reconsideration request under AS 44.37.011(d) or AS 44.62.540(a). (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 38.05.020	AS 38.50.160	AS 44.37.011
AS 29.65.050	AS 38.05.035	AS 41.15.020	AS 46.15.020
AS 29.65.120	AS 38.08.110	AS 41.17.055	AS 46.17.030
AS 38.04.900	AS 38.09.110	AS 41.21.020	

11 AAC 02.050. HEARINGS. (a) The department will, in its discretion, hold a hearing when questions of fact must be resolved.

(b) The hearing procedure will be determined by the department on a case-by-case basis. As provided in 11 AAC 02.030(a)(13), any request for special procedures must be included with the request for a hearing.

(c) In a hearing held under this section

(1) formal rules of evidence need not apply; and

(2) the hearing will be recorded, and may be transcribed at the request and expense of the party requesting the transcript. (Eff. 11/7/90, Register 116)

Authority:

AS 03.05.010	AS 38.05.020	AS 41.15.020	AS 46.17.030
AS 29.65.050	AS 38.08.110	AS 41.17.055	
AS 29.65.120	AS 38.09.110	AS 41.21.020	
AS 38.04.900	AS 38.50.160	AS 46.15.020	

11 AAC 02.060. STAYS; EXCEPTIONS. (a) Except as provided in (c) and (d) of this section, timely appealing or requesting reconsideration of a decision in accordance with this chapter stays the decision during the commissioner's consideration of the appeal or request for reconsideration. If the commissioner determines that the public interest requires removal of the stay, the commissioner will remove the stay and allow all or part of the decision to take effect on the date set in the decision or a date set by the commissioner.

(b) Repealed 9/19/2001.

(c) Unless otherwise provided, in a statute or a provision of this title, a decision takes effect immediately if it is a decision to

(1) issue a permit, that is revocable at will;

(2) approve surface operations for a disposal that has already occurred or a property right that has already vested; or

(3) administer an issued oil and gas lease or license, or an oil and gas unit agreement.

(d) Timely appealing or requesting reconsideration of a decision described in (c) of this section does not automatically stay the decision. However, the commissioner will impose a stay, on the commissioner's own motion or at the request of an appellant, if the commissioner determines that the public interest requires it.

(e) A decision takes effect immediately if no party is eligible to appeal or request reconsideration and the commissioner waives the commissioner's right to review or reconsider the decision. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 38.05.020	AS 38.50.160	AS 46.15.020
AS 29.65.050	AS 38.05.035	AS 41.15.020	AS 46.17.030
AS 29.65.120	AS 38.08.110	AS 41.17.055	
AS 38.04.900	AS 38.09.110	AS 41.21.020	

11 AAC 02.070. WAIVER OF PROCEDURAL VIOLATIONS. The commissioner may, to the extent allowed by applicable law, waive a requirement of this chapter if the public interest or the interests of justice so require. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 41.21.020	AS 38.05.020	AS 41.17.055
AS 29.65.120	AS 03.10.020	AS 38.08.110	AS 46.15.020
AS 38.05.035	AS 29.65.050	AS 38.09.110	AS 46.17.030
AS 38.50.160	AS 38.04.900	AS 41.15.020	

11 AAC 02.900. DEFINITIONS. In this chapter,

(1) "appeal" means a request to the commissioner to review a decision that the commissioner did not sign or cosign;

(2) "appellant" means a person who files an appeal or a request for reconsideration.

(3) "commissioner" means the commissioner of natural resources;

(4) "decision" means a written discretionary or factual determination by the department specifying the details of the action to be allowed or taken;

(5) "department" means, depending of the particular context in which the term is used, the Department of Natural Resources, the commissioner, the director of a division within the Department of Natural Resources, or an authorized employee of the Department of Natural Resources;

(6) "request for reconsideration" means a petition or request to the commissioner to review an original decision that the commissioner signed or cosigned. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 38.08.110	AS 44.37.011
AS 29.65.050	AS 38.09.110	AS 44.62.540
AS 29.65.120	AS 38.50.160	AS 46.15.020
AS 38.04.900	AS 41.15.020	AS 46.17.030
AS 38.05.020	AS 41.17.055	
AS 38.05.035	AS 41.21.020	

PUBLIC AND AGENCY COMMENTS AND RESPONSES

Healy Lake Fire Salvage BIF Public and Agency Comments and Responses			
Commenter	Date Received	Comment	Action
Kevin Hanley DEC Div. of Water	5/9/2016	Recommend that the standards of 11 AAC 95.290(f),(g),(h), and (i), and 11 AAC 95.300(a)(5) be strictly adhered to during sale implementation	DOF will adhere to the standards set out in the AFRPA regulations.
McKenzie Johnson SHPO OHA	5/25/2016	DOF comply with the AHPA in reporting of uncovered sites during operations. Requested a specific area of avoidance via a 300' buffer.	DOF will retain the requested 300 ft buffer and adhere to the AHPA.
James Durst ADF&G Div. of Habitat	5/26/2016	<ul style="list-style-type: none"> Consult with local land owners, the Healy Lake Village and other allottees regarding the salvage activities. Recommend minimizing harvest of undamaged timber to help maintain a range of stand ages on the landscape for wildlife habitat. This would be particularly helpful to wildlife if live trees in unburned inclusions within the burn area were left in a manner similar to the wildland fire mosaic. Concerned with lack of information on measures to protect early regen which is important to moose habitat and the protection could be accommodated in the progression of harvest layout over time. Fish Habitat (Title 16) permits will be required ice bridge creation or other harvest related activity within the limits of ordinary high water. Ice conditions are not always dependable and changing between years. Recommend a monitoring protocol be established when needed. ADF&G will work with DOF on access route alignments to meet the fish habitat requirements of FRPA and its Regs. Recommend breaks every 100'-200' in berms created along roads to accommodate public access, wildlife passage, and water movements. Add language in the document to address the varying burn depths and the effects on exposure of mineral 	<ul style="list-style-type: none"> All of the affected were given notice and time to comment on the document. DOF will give notice to the users of the road through signage and our local offices. DOF will leave some pockets of unburned timber within the fire's perimeter will be maintained when possible. The protection of the live trees will also act as a seed source. DOF will design and layout the harvest unit over the ten years will allow for early regen establishment. DOF will require as part of any harvest contract, the contractor to obtain and provide a copy of Fish Habitat (Title 16) permits. Monitoring of ice conditions will be required in any contract as well. DOF will work closely with ADF&G on road routes and layouts. Even though we don't anticipate large berms, breaks will be maintained as appropriate. DOF will conduct further field observations throughout the area to address the burn effects on the exposure of mineral soil. The recommended changes

		<p>soil or retention of live aspen and birch roots that will allow sprouting.</p> <ul style="list-style-type: none"> • Some language changes in the document in the Wildlife habitat and harvest section to reflect moose, hare and leaf stripping specifically. • 100ft buffers along the Tanana River maybe striped away due to the changing conditions of the channel. 	<p>were made in the document.</p> <ul style="list-style-type: none"> • The recommended changes were made in the document • DOF will continue to monitor changes in the river channels as well as the areas in the 100' buffers.
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X. ATTACHMENTS

Maps: Spot Imagery and Topographic



