

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



**FAIRBANKS-DELTA AREA FORESTRY
FINAL BEST INTEREST FINDING AND
DECISION FOR**

**CARIBOU-GLACIER
TIMBER HARVEST AREA
NC-1374-D
6/18/2018**

ACRONYMS/DEFINITIONS

ADEC	Alaska Department of Environmental Conservation
ADF&G	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resources
BIF	Best Interest Finding
CCF	Hundred cubic feet
DBH	Diameter at breast height
DMLW	Division of Mining, Land and Water
DOF	Division of Forestry
FLUP	Forest Land Use Plan
FRPA	Alaska Forest Resources and Practices Act
FYSTS	Five Year Schedule of Timber Sales
MBF	Thousand board feet
ROW	Right-of-way
SHPO	State Historic Preservation office
TBAP	Tanana Basin Area Plan
TVSF	Tanana Valley State Forest
TVSFMP	Tanana Valley State Forest Management Plan

Timber size classes

Pole: 5"-9" DBH

Saw: ≥ 9 " DBH

Region III Stream Classifications

Type III-A: (a) Nonglacial high value resident (HVR) fish water body greater than three feet in width at the ordinary high-water mark;

(b) nonglacial anadromous water body; or

(c) backwater slough

Type III-B: a glacial high value resident fish water body or a glacial anadromous water body; does not include a glacial backwater slough;

Type III-C: A nonglacial high value resident fish water body that is less than or equal to three feet in width at the ordinary high-water mark and that does not contain anadromous fish.

I. PROPOSED ACTION

Alaska Division of Forestry (DOF) is proposing to offer for sale approximately 470 acres of white spruce timber from state lands in the Caribou Creek and Glacier Creek drainages. The volume to be offered totals approximately 5,000,000 board feet. DOF would sell the timber as negotiated, competitive bid, or value-added timber sales for commercial use. Some of the land covered by this Best Interest Finding (BIF) appeared in the Delta Area Five Year Schedule of Timber Sales (FYSTS) as Rowland #1. A combined BIF/FLUP, "Rowland #1", under went Agency review in August of 2006. Due to the large fire salvage operations that occurred from the Camp Creek fire and archeological concerns, completion of the public review on the Rowland #1 proposal did not occur. **Given the significant amount of time that has passed and excluding one of the harvest units that had previously been proposed, DOF is reissuing a BIF and a FLUP for the proposed harvest area.**

The management objectives for the proposed timber sales are:

- Provide timber products for the industry and the state and local economy.
- Return the site to a young productive mixed stand forest to include balsam poplar, birch, aspen, and white spruce.
- Provide firewood for the residential heating needs of interior Alaska communities
- Protect valuable non-timber resources by applying Best Management Practices for Timber Harvest Operations (BMPs) to all timber harvest activities.

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 to proceed with the action as proposed. This record will be maintained at DOF's Fairbanks Office filed as NC 1374-D.

IV. SCOPE OF DECISION

This best interest finding (BIF) is the first part of step three of a six-step process to design, sell, and administer timber sales. 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 Plan (TVSFP) and the Tanana Basin Area Plan (TBAP). The finding also considers the Interagency 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: Five-year Schedule of Timber Sales (AS 38.05.113). Fairbanks-Delta Area Forestry prepares a Five-year Schedule of Timber Sales every other year. The Schedule identifies proposed sales, including their location, volume, and main access routes. The Five-year Schedules are scoping documents that provide an opportunity for public, agency, and industry to identify potential issues and areas of interest for further consideration in the best interest finding and Forest Land Use Plan. A proposed timber sale must appear in at least one of the two Five-year Schedules preceding the sale.

Step 3: Best Interest Finding. DOF must adopt a final BIF before selling timber. 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 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.

DOF issued a Preliminary BIF covering the decision to sell approximately 470 acres of white spruce timber from state lands in the Caribou Creek and Glacier Creek drainages as negotiated, competitive bid, or value-added timber sales for commercial use on May 14, 2018. DOF considered all written comments received during the 30-day review period. Responses to the comments are listed in the comment matrix.

This document is the final BIF for the Caribou-Glacier Area. 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.

Step 4: 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 the 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. FLUPs will be based on additional field work, agency and community consultation, and site-specific analyses by DOF, and will be subject to public and agency review.

Step 5: Timber sales and contracts. Following adoption of the final BIF, and completion of the FLUPs, DOF will offer the timber for sale by auctioning competitive sales and/or 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 6: Sale administration. DOF will administer the timber sales and conduct field inspections to ensure compliance with the final BIF, 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 approximately 2,400 acres of State land lying between the Caribou and Glacier Creek drainages. The upland area is bounded by Glacier Creek (south and east) and Caribou Creek (north and west). There is one unit north of a fork of Caribou Creek and it has proposed all-season access by crossing the creek. Approximately 1,000 acres are Forest Classified, Subunit 7A2, and are managed under the TBAP guidelines. Approximately 1,500 acres are within the TVSF, Subunit 8C, and are managed under the TVSF guidelines. All the proposed sale areas have been listed in at least two Delta Area FYSTS.

The project area is located within Sections 25,26,35,36 Township 6 South, Range 9 East; Sections 30, 31 Township 6 South, Range 10 East; Section 1,2 Township 7 South, Range 9 East; Sections 6, 7 Township 7 South, Range 10 East Fairbanks Meridian, Alaska.

This area is found on USGS quads: Big Delta B-4 (see attached maps).

B. Title status

The proposed timber harvest areas are on Forest Classified State land in portions of two townships; the remaining harvest areas lie within two other townships in the TVSF management area. The acquisition authority and land classification is as follows;

Township & Range	Acquisition Authority	Classification Order
T 6 S, R 9E, FMR	GS-3702- General Grant	NC-82-065
T 6 S, R 10E, FMR	GS-3703- General Grant	NC-82-065
T 7 S, R 9E, FMR	GS-1161- General Grant	NC-90-002
T 7S, R 10E, FMR	GS-1134 – General Grant	NC-90-002

Multiple subsurface mineral claims exist through out the area. Alaska Division of Forestry (DOF) does not anticipate any adverse impacts to mineral claims; all claim markers or signage that is found will be protected during harvest operations. Removal of the timber from the proposed harvest locations as well as roads created during harvest may facilitate mineral extraction activities.

C. Land use planning, classification, and management intent

The proposed area is within the TVSF in the following unit(s): Shaw Creek - Subunit 8C commercial timber management. Proposed harvest areas located in the TBAP management area is located in the Delta-Salcha sub-region, subunit 7A2; designated for Forestry (primary use), Public Recreation, and Wildlife Habitat.

Highly sensitive cultural sites exist in the Shaw Creek area and are noted in the TVSF management guidelines. None of the proposed timber sales impact these highly sensitive areas. Most of the area is open for and has been placed under lease, for mining activity. Caribou Creek is listed as a special management zone and subject to streamside management requirements.

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

This area is outside of any organized borough or municipality and is not subject to any municipal plans.

D. Current access and land use:

Existing access is via all season Pogo Mine Road to mile 12 where sale access begins. There are 6 approaches planned to the Pogo Road that have been approved. Approximately 8.5 miles of roads are anticipated to be constructed to access all of the proposed sale areas. All sale units are anticipated to be accessible year-round and as such all-season road construction methods will be utilized.

Public access is restricted along the mine road and adjacent powerline right-of-way for non-timber harvest activities pursuant to ADNR policy. All hunting/trapping in the area covered by this BIF is restricted when accessed with a vehicle along the mine road/powerline.

Current land use in the area has been primarily timber harvesting. No know trap lines exist in the area. Due the Pogo road use regulations; very limited hunting, if any, occurs.

E. Background and description of proposal

1. **Background:** A smaller timber harvest proposal, Rowland #1, underwent initial agency scoping in August of 2008. During this initial scoping, cultural resource concerns resulted in the initiation of an archaeological reconnaissance survey. This survey, "Archaeological Reconnaissance Survey of Units 1 and 6 of "Rowland #1 Timber Sale NC-1374-D Shaw Creek Drainage, Alaska" was completed in September of 2007. **DOF is excluding the harvest unit previously labeled Unit 1.** Due to excessive timber salvage opportunities resulting from the Camp Creek and Gilles Creek wildland fires, little to no activity occurred on completing the Rowland #1 timber sale package.
2. **Timber volume and sustained yield:** The anticipated harvest acreage is approximately 480 acres. The expected harvest volumes are expected to be approximately 5,000,000 board feet (5,000 MBF) or approximately 1,500,000 cubic feet (15,000 CCF).

The Delta Area Annual Allowable Cut (AAC) is calculated at approximately 2,747 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:** Initial proposed harvest areas consist of 10 units with a total of approximately 470 acres. The boundaries of the units directly adjacent to the Pogo Mine Rd are located along naturally occurring vegetative type changes. The boundaries of the remaining units have not been marked on the ground, but will eventually be located using vegetative types, harvest systems, access, wildlife, archaeological and silvicultural considerations. The location of boundaries and access routes for all the unmarked units will avoid any obvious geological formations that would potentially have prehistoric use.

Mature aspen, birch and spruce will be left around the sale periphery to serve as future seed tree sources. Clearcut and partial cut harvest methods will be utilized to harvest the timber sale units. Initial sale design is to harvest all the white spruce larger than 9 inches DBH in

the first 5 units (along the Pogo Mine Rd), however, aspen and birch over 6 inches DBH and all species to a 6" DBH for fuelwood use in the remaining units will be considered. Markets have evolved that could utilize the small diameter white spruce timber. Actual unit harvest methods will be determined and described in the FLUP document.

The Pogo Mine Management has requested that all the trees be harvested adjacent to the Pogo Road to limit the potential for "leave trees" falling into the road after the harvest is completed. The contract will require the purchaser to remove all trees that could fall into the road.

- a. Reforestation and site preparation: The sale area will be reforested in compliance with the Forest Resources and Practices regulations (11 AAC 95.375-.390) Natural regeneration will be utilized initially for regeneration. Scarification within the harvested units will be incorporated to facilitate natural regeneration. If natural regeneration is insufficient DOF will utilize inter-planting to establish stocking sufficient to meet Forest Practice requirements.
- b. Access design and construction: Access design, construction, and maintenance will comply with the Forest Resources and Practices regulations (11 AAC 95.285-.355).

The proposed forest access road will be constructed to a secondary all-season road standard as described in Appendix F of the TVSFMP. Roads will be constructed by removing the trees, vegetative mat, and constructing the road using cuts and fills with earth-moving equipment. Roads will initially be constructed to a 12 to 16-foot width. Roads may be located on side slopes that vary from 5 to 35%. Road grades vary from 0 to 10% with an average of 5%. Debris from the road construction will be placed below the road.

One water crossing of may be created to access proposed unit on the north side of the unnamed tributary of Caribou Creek. The proposed crossing would be in the uppermost headwaters of Caribou Creek in Section 26 T06S R09E. For all-season access over this crossing; detailed economic and road layout and design considerations will need to be undertaken by DOF and ADF&G will be involved in any decision. Information regarding this crossing, if needed, will be discussed and detailed in subsequent FLUP(s) that include this sale area.

The proposed roads have potential to erode after construction due to the road grades. Water bars will be placed in the road to prevent erosion. The contract will require gravel to be placed on the approaches to the Pogo Road. New roads are not expected to have erosion that could not be mitigated and will be left open after the sale to facilitate additional forest management of the area. DOF will be responsible for erosion control after the sale is terminated. Due to the possibility of mining operations impacting the road system, long term easements may be pursued by DOF for primary routes.

- c. Appraisal method: DOF will appraise the timber value in compliance with 11 AAC 71.092. Based on transactional evidence and market demand for saw logs/ cabin logs and fuelwood volume, DOF will apply a likely value for those delivered products. The State will be compensated based on that market rate minus the estimated total harvest cost. DOF will factor in local demand, timber type, amount of decay, and economies of scale in its decision to differentiate the cordwood from the sawlog volumes in the FLUP(s). The method of payment will be determined by DOF as either lump sum or possibly multiple payment units.

F. Resources and management

1. Timber

- a. Timber stand composition and structure: The forest stand within the first 5 units adjacent to the Pogo Mine Rd, is predominantly mature white spruce sawtimber and volume estimates have been determined. Some of the other units are characterized as primarily over mature pole timber. There is approximately 15-20% mixed species of aspen, birch and poplar in the sale area but the predominate species is white spruce. Portions of all the harvest units have white spruce saplings and pole-sized trees beneath the canopy of white spruce. Mature balsam poplars were found interspersed throughout the sale area. The forested stands surrounding the sale areas are comprised of a variety of stand mixtures including mature white spruce, black spruce, birch, and aspen.

Two of the proposed harvest units were impacted by wildland fire during the 2010 Gilles Creek incident. Approximately 9.5 acres from were included in NC 1506-D Glacier Creek Fire Salvage. The dozer line established by the fire operations will be used as the delineation between NC 1506-D and the subsequent sale areas to be offered under this BIF. Wind throw damage (September 2012 event) was noted through out the sale areas.

- b. Stand silvics: The Fairbanks-Delta Area goal for regenerating harvest areas that are predominantly mature white spruce or birch is to establish a mixed species forest of hardwoods and white spruce, with white spruce being the predominate species. Old stands are to be rejuvenated to a fully stocked mixed stand of young healthy trees while retaining some residual trees resulting from leave trees left in the unit. Young forests provide future crop trees and food for wildlife. Residual leave trees provide some seed sources, nesting sites, and other benefits.

A combination of environmental and economic factors has influenced the Delta Area to favor heavy partial harvests in combination with natural seeding. Partial harvests can result in a wide range of the number of sapling to pole-sized trees per acre. The average harvest area has about 20 saplings and pole-sized mixed species trees left per acre. Some acres have no trees left and other sites have up to 100 saplings and pole-sized trees per acre left after harvest. The strong winds in the Delta Area combined with summer drought which typically occurs during the summer solstice period, cause a very high mortality of white spruce seedlings that germinate in May or early June. Partial harvesting allows some shading during the 20+ hour sunlight period and slows wind velocities to moderate the effect of desiccation of germinates and increases their survival rate.

These proposed sale areas will be partially harvested or clearcut. The mature sized balsam poplars will be protected from damage during the harvest to serve as cavity nesting trees and woody debris in the future. Mature white spruce will be left around the perimeters of the harvest units to provide seed sources for regeneration.

Portions of the sale may be scarified to aid in warming the soil and improving regeneration of white spruce. Scarification can also improve the regeneration of woody shrubs and deciduous trees for wildlife browse and cover. The forester will make a final determination for the need to scarify any particular area within the sale after the harvest is

completed. Any areas that are expected to be deficient in meeting the Forest Practices Act standard of 450 trees established by the 7th year will be planted with white spruce seedlings.

- c. Topography and Soils: The proposed sale will be designed and managed to prevent significant impairment of the land and water with respect to renewable resources (AS 41.17.060(c) (5)). The proposed sale is on hilly topography above and below the Pogo Road. The elevation of the sale boundaries extends from 1150 feet to 1,600 feet. Slopes within the sale vary from 5 to 50% with the average being about 25%. Soils are anticipated to be sandy loess over fractured rock. The loess is estimated to be 3 to 10 feet in thickness.
2. Agriculture. No known or anticipated future agricultural activity is expected in the proposed harvest areas.
3. Wildlife habitat and harvest. Most common species of wildlife that are normally found in interior Alaska forests inhabit the area. Where practical, mature balsam poplar and quaking aspen will be protected, and operators encouraged, but not required to, leave dead standing trees for cavity nesting birds and other habitat components and uses.

The timber sale harvest will afford more sunlight to the forest floor and will increase the production of browse species for moose. The increase in sunlight will also enhance the production of a variety of berries and seeds eaten by grouse and other animals.

The area becomes accessible to trappers during the winter when Shaw Creek Flats freezes. People do hunt for moose in Shaw Creek Flats with all terrain vehicles and air boats. No visible evidence or documentation of recent hunting activities was noted in the sale area. There is no known subsistence, recreational or commercial fishing near the sale.

4. Fish Habitat, 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). Caribou Creek is listed as a "sensitive" stream in the TVSFMP. No harvest activity is expected to occur directly adjacent to Caribou Creek or Glacier Creek.

A stream crossing to access the unit on the north side of an unnamed tributary of Caribou Creek is being considered, details of this crossing will be addressed in the FLUP review process. Stream crossings with equipment and culvert installations will require a Fish Habitat Permit. There is no current plan to cross the main channel of the creek however, due to the fish habitat management considerations for Class IIIC Caribou Creek, ADF&G will be consulted to determine what will be necessary for this crossing. No other streams or water resources are located within the sale area boundary

5. Recreation, tourism, and scenic resources. Recreational use of this area is minimal. Trapping and hunting are the only current recreation activities in the upper Shaw Creek Flats and surrounding hillsides and this is very limited due to the restricted access to the Pogo Road. Access to Shaw Creek Flats vicinity has been by dog sled or snow machine during the winter or by air boats and tracked vehicles during the hunting season. There is no evidence of recreation activity occurring in the sale units or along the proposed access routes. There is no known tourism in the proposed sale area.

6. Cultural Resources. DOF works with the State Historic Preservation Office (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 act to protect the findings.

An archeological reconnaissance survey of two units was performed in September of 2007 by Charles Holmes; DOF has removed one of the units surveyed from the timber harvest completely. The other unit was determined to have the highest likelihood of cultural significance of the remaining harvest areas. A brief reconnaissance of the unit was performed and no cultural sites were found. During the sale layout and systematic grid cruise of units 1-5, DOF saw no additional evidence of historic or archaeological artifacts or features. There are no other known cultural, historic or prehistoric sites in the sale or along proposed access routes.

The State Office of History and Archaeology (OHA) has expressed concern over the “brief and non-intensive” archaeological reconnaissance conducted in the harvest area in 2007. OHA recommends another survey of the harvest areas and proposed roads be conducted before any harvest activity and road construction take place. DOF is exploring options for those recommendations and will follow the requirements of the Alaska Historic Preservation Act. If any historic or archaeological sites are encountered, DOF will immediately cease operations at the site and inform the State Historic Preservation Officer and act to protect the findings.

7. Subsurface Resources. State status plats show mining claims throughout the area. There are no known developed subsurface resources in the sale area. No adverse impacts are expected to occur to these mining leases. All location or staking monuments found within the sale areas will be protected and preserved.

G. Costs and benefits

No negative economic cost impacts are anticipated with the sale of this timber resource. This proposed sale is expected to provide more than 5,000,000 board feet of timber to the forest products industry in Delta Junction and the surrounding areas. DOF anticipates direct and indirect revenues in excess of \$300,000 from the sale of the proposed timber. Typical economic multipliers for the forest industry is 5-7 times the sale revenue, thus a \$1.5 million-dollar economic impact could be expected from the sale of this timber.

Maintenance costs associated with this sale are expected to be very low due to the limited public access of the Pogo Road. Possible use of some of the timber harvest to provide pelletized biomass fuels could help reduce air quality problems in the urban areas of interior Alaska.

VI. PUBLIC NOTICE

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 and the Division of Forestry webpage: <http://forestry.alaska.gov/timber/delta>. In addition, public notice was mailed via both physical and electronic mailing lists.


VII. PUBLIC COMMENT AND RESPONSE

DOF received comments from 3 agencies and 0 individuals. Comments, as well as a DOF response, are summarized in the comment matrix of this document.

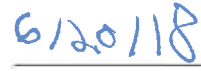
VIII. DISCUSSION AND FINAL FINDING AND DECISION

After due consideration of all pertinent information and alternatives, the DNR has reached the following Final Decision: To offer for sale approximately 470 acres of white spruce saw and pole timber to provide sawtimber, fuelwood, biomass while improving habitat as proposed in **Alternative A** of the PBIF. DOF finds that this final decision satisfies the objectives stated in this document and it is in the best interest of the State to proceed with this action under its authority of AS 38.05.035(e) (Powers and Duties of the Director) & AS 38.05.110-120; 11 AAC 71 (Timber Sale Statutes and Regulations).

IX. SIGNATURE



Trevor Dobell, Regional Forester (acting)
Alaska Division of Forestry



Date

STATE OF ALASKA

**Department of Natural Resources
Division of Forestry**

NC-1374-D

Caribou-Glacier Area

**Sections 25, 26, 35, and 36 T6S R9E
Section 1 T7S R9E**

Sections 6 and 7 T7S R10E

VICINITY MAP



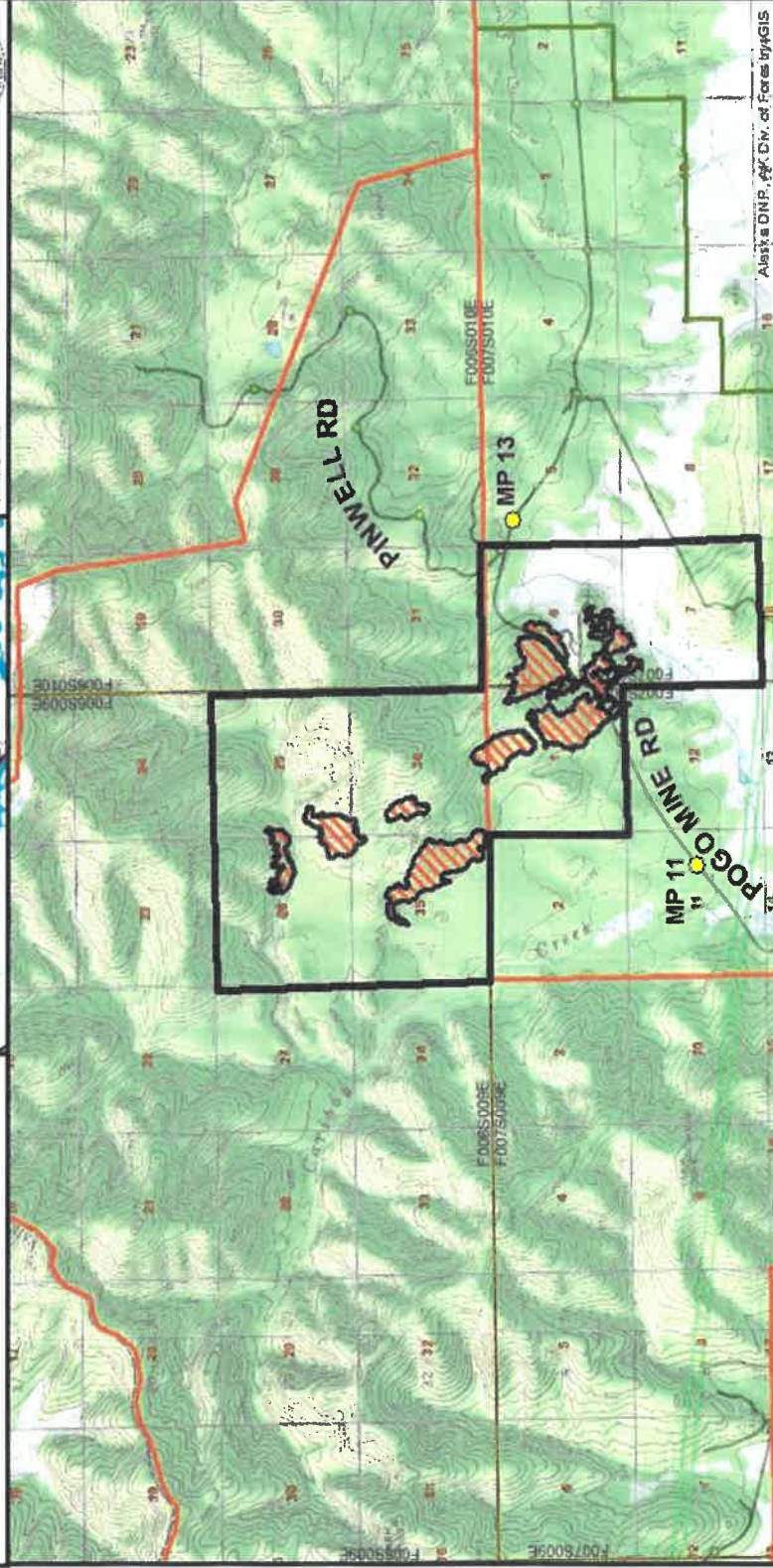
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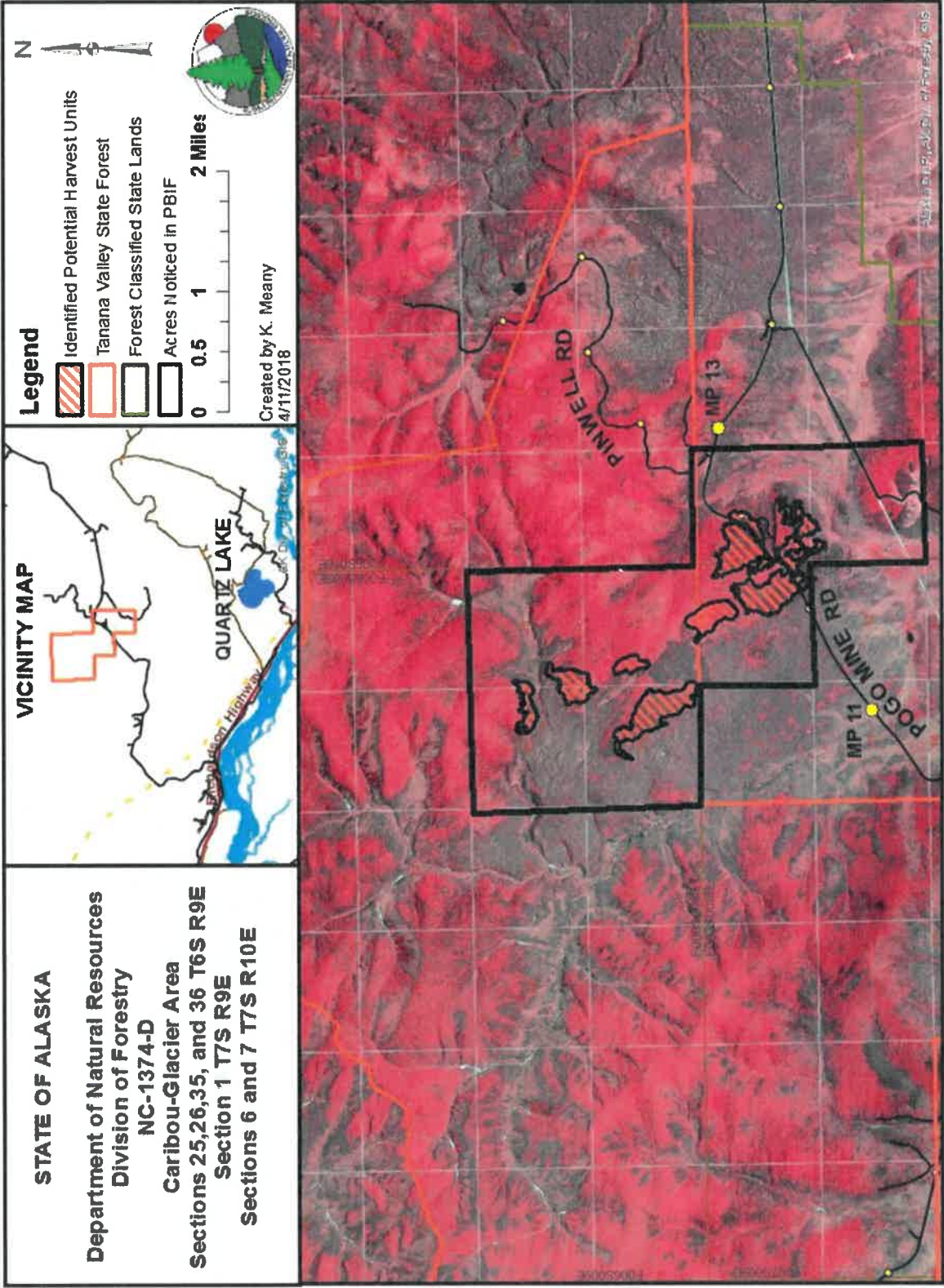
-  Identified Potential Harvest Units
-  Tanana Valley State Forest
-  Forest Classified State Lands
-  Acres Notified in PBIF

0 0.5 1 2 Miles



Created by K. Meany
4/11/2018





X. APPEALS

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received by **6/30/2018** 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 **6/30/2018**. 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 Paul Keech, Fairbanks-Delta Area Forester, 907-451-2601, 3700 Airport Way, Fairbanks, AK 99709.

APPENDIX I. 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 restrict 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 44.37.011	AS 38.05.035	AS 41.21.020
AS 38.04.900	AS 29.65.050	AS 38.09.110	AS 46.15.020
AS 38.08.110	AS 29.65.120	AS 38.50.160	AS 46.17.030
AS 41.15.020	AS 38.05.020	AS 41.17.055	

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 re-

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

PUBLIC AND AGENCY COMMENTS AND RESPONSES

Caribou Glacier Area PBIF Public and Agency Comments and Responses				
Commenter	Date Received	Comment	Action	
Brooks Ludwig , Northern Region State Parks Superintendent	5/14/2018	No objections.	No action needed.	
Audra Brase , Regional Supervisor ADF&G, Division of Habitat	6/12/2018	<p>No fish, wildlife, or habitat concerns that preclude the sale of these units or proposed access roads.</p> <p>Specify the restrictions to public access along the Pogo Mine Rd and adjacent powerline right-of-way for non-timber harvest activities pursuant to ADNRR policy.</p> <p>PBIF states that a bridge will be likely for access to one of the harvest units. Please verify if and what structure will be installed and specify if it is the mainstream of Caribou Creek or the unnamed tributary.</p> <p>Since the catalogued extent of Caribou Creek is at least 15 stream miles from the sale area/crossing site, the AWC code can be deleted.</p> <p>Under heading "Wildlife Habitat" (page 6), change 2nd and 3rd sentence regarding "dead standing trees".</p>	<p>No action needed.</p> <p>Language has been added to the final BIF to address these restrictions.</p> <p>Language stating the use of a bridge has been deleted and instead DOF will consult with ADF&G to determine what adequate crossing structure is needed. Language in the final BIF specifies that any crossing structure will be across the unnamed tributary.</p> <p>AWC code has been removed from the document.</p> <p>The language has been changed to the recommended wording provided by ADF&G reviewers.</p>	

		<p>To aid in the reference of a sale unit from the text/tables please number the sale units on the map. Please provide additional applicable information on maps as well.</p> <p>Please include DOF acronyms and definitions of terms.</p> <p>Stream crossings with equipment and culvert installations will require a Fish Habitat Permit.</p>	<p>Unit numbers were removed from the text and instead will be specified in the text and maps in the FLUP. DOF will provide GIS data to ADF&G reviewers of any harvest units and roads.</p> <p>Acronyms/definitions page has been added to the final BIF.</p> <p>Added this language under the "Fish Habitat, water resources, and water quality" section of the document.</p>
<p>Judith E. Bittner, Chief, OHA/State Historic Preservation Officer</p>	<p>6/15/2018</p>	<p>Recommend an archaeological survey is conducted prior to road construction and harvest in the Rowland #1 harvest area due to the following: There are two known cultural resources sites in proximity to the west side of the proposed harvest units. The 2007 archaeological reconnaissance conducted in the area was brief, and non-intensive. In addition, archaeological research conducted since 2007 has altered and expanded probability models for site locations. As recently as 2015 a site was reported closer to the edge of the proposed timber sales, little information is available about this site currently and due to its reported location in lowlands between two uplands there is potential of an associated site in the uplands areas within the closest harvest units.</p> <p>Correctly identify that only two units were surveyed during the 2007 reconnaissance. Other proposed harvest units were not addressed.</p>	<p>The comment is noted and DOF will explore options for additional surveys. DOF will work with OHA to ensure that known sites are not disturbed from any harvest or road activities. DOF will work with OHA to position roads and landings where they will have the least likelihood of disturbing any potential sites.</p> <p>Changes have been made to the document to reflect that only two units were considered during the archaeological reconnaissance.</p>

