

State of Alaska
Department of Natural Resources
Division of Forestry
Coastal Region
Kenai / Kodiak Area

**Forest Land Use Plan /Final Finding
Old Pioneer Lane Timber Sale SC-3182K
March 2010**



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I. INTRODUCTION

A. Purpose

The purpose of this document is to provide sufficient information to reviewers to ensure that the best interest of the state will be served by the Department of Natural Resources, Division of Forestry, Kenai-Kodiak Area, offering for sale an estimated 280 MBF or 550 cords of spruce by competitive sealed bids. Harvesting is proposed within one 40-acre harvest unit. The sale is designed to minimize impacts on visual quality, recreation, tourism, water quality, wildlife resources, and fisheries.

The Old Pioneer Lane Timber Sale is located approximately 3.6 miles north of Anchor Point, approximately 500 feet south of the end of Old Pioneer Avenue, which extends from Cape Ninilchik Avenue. Cape Ninilchik Avenue extends east from the Sterling Highway near Mile 153.9. This sale consists of one 40-acre harvest unit, surrounded mostly by low lying wet sites occupied by scattered black spruce. The silvicultural system for timber harvest in this sale will be a sanitation-salvage, which entails removing dead and infested trees. The operator will remove dead and infested trees while retaining healthy spruce for seed reserves. All dead or infested spruce larger than 8 inches in DBH will be removed. Birch trees that are dead, dying, or appear defective will be harvested. The resulting stand will contain approximately 100 stems per acre. The Division of Forestry may augment reforestation by planting seedlings within two years of harvest. Scarification will be required of the operator before completion of the timber sale; scarification will provide better conditions for establishing seedlings, both natural and planted.

This timber sale may be sold as a separate timber sale or in combination with other sales under the provisions of AS 38.05.120 [Disposal Procedure] depending on market conditions. If no qualified bid is received within the time specified for a sale, the DOF may offer the sale(s) for purchase over-the-counter for not less than the advertised minimum bid without further notice.

Objectives

1. The primary objectives of this timber sale are to reduce the wildfire risk and potential destruction of adjacent private property, salvage timber affected by bark beetles.
2. To accelerate reforestation: harvesting timber is a means of preparing the area for new trees to establish. This proposal helps meet the Division's statutory responsibility to provide "...sound forest practices necessary to ensure the continuous growing and harvesting of commercial forest species on ...state land."
3. To follow DNR's constitutional mandate to encourage the development of the state's renewable resources, making these resources available for maximum use consistent with the public interest. Firewood is the primary product of this sale, and therefore parallels the public's increasing firewood demand.

B. Alaska Coastal Management Program (ACMP) Consistency

DNR believes the activity described in this FLUP is consistent with the ACMP. See Section VII for DNR's consistency analysis.

Pursuant to AS 46.40.096(c), the Division of Forestry requested consistency review comments from state resource agencies, affected coastal districts, and other interested parties. The Department of

Environmental Conservation stated that they had no “significant concerns” with this proposed sale, (DEC, 2009).

C. Five-Year Sale Schedule

The general location of this proposed timber sale was shown in the Five-Year Schedule of Timber Sales for calendar years 2007 – 2011, and is also included in the FYSTS calendar years 2009 – 2013,.

D. Location

The legal description of this proposed action is as follows: Section 26, Township 4 South, Range 15 West, in the Seward Meridian. This sale is within the Kenai Peninsula Borough District Coastal Management Plan. The nearest Regional Native Corporation is The Cook Inlet Region, Inc., (CIRI). The nearest village corporation is Ninilchik Natives Association. Anchor Point is the nearest community, and is located approximately 3.6 miles south of the sale area; the community of Ninilchik is approximately 18 miles northeast of the sale area. Most of the land ownerships surrounding the sale area are private. University of Alaska lands adjoin the sale area to the southwest. This sale can be located on the United States Geological Survey 1:63,360 Quadrangle map titled Seldovia D-5.

E. Title, Classification and Other Active or Pending Interests

The sale area was acquired by the State of Alaska as General Grant lands under the Statehood Entitlement Act of July 7, 1958. The state received patent to these lands on or before June 3, 1963. The Patent Number is 1232404. The sale is located in an area covered by the Kenai Area Plan, adopted January 2000. This timber sale is located within a unit of the Kenai Area Plan labeled as #330 and designated under the plan for General Use. Timber Harvest is an allowed use on these lands.

F. Planning Framework

The decision to offer the Old Pioneer Lane Timber Sale will be based on a long series of planning decisions, made with public and agency input every step of the way. This document, the Forest Land Use Plan (FLUP) for the timber sale, is one of the final steps in this long planning process. The planning for where timber harvest is appropriate, and where it is not appropriate, is done at a much broader scale than the FLUP. The framework for how management decisions are made for timber sales on the Kenai Peninsula is as follows:

1. Area plans, management plans, and land use plans (in this case, the *Kenai Area Plan*) determine where timber harvesting is allowed.
2. The Forest Resources and Practices Act and Regulations, and the Alaska Forest Management Statutes & Regulations determine how timber will be managed within areas where harvesting is allowed by the area plan.
3. The Five-Year Schedule of Timber Sales proposes when timber sales will be offered, and approximately where and how big each sale will be.
4. Next, a Forest Land Use Plan is written for each individual sale, which contains more detailed decisions about each sale.

Both the area plan and the management plan processes were the means to openly review resource information and public concerns prior to making long-range decisions about public land management. The planning processes determined how the complete range of uses would be accommodated in the proposed sale area, including opportunities for forestry, as well as protecting fish and wildlife habitat, opportunities for recreation, and the whole range of other uses. The decision to allow timber harvest in

the area is based on the fact that the Kenai Area Plan's designation for this particular area allows for timber harvest.

Next, the Division of Forestry prepares a Five-Year Schedule of Timber Sales (FYSTS) every other year. The FYSTS gives the public, timber industry, and other agencies an overview of the division's plans for timber sales. They summarize information on proposed timber harvest areas, timber sale access, and reforestation plans. Five-Year Schedules are subject to public and agency review. The review helps identify issues that must be addressed in detailed timber sale planning. After review and revision, DNR uses the schedules to decide how and where to proceed with timber sale planning.

The Old Pioneer Lane Timber Sale was included in the DOF's Mat-Su Area and Kenai-Kodiak Area Five Year Schedule of Timber Sales, 2009-2013. The notice was posted in post offices on the Kenai Peninsula and on the State of Alaska Public Notice and the DOF web sites. The notice was also sent to agencies, Kenai/Kodiak community councils, tribal councils, Native corporations, planning commissions, Legislative offices, conservation groups, small mill operators, timber industry representatives, and private citizens. These public comments were used to identify issues that would be addressed in the Forest Land Use Plans.

Finally, the Forest Land Use Plan (FLUP) is prepared. The FLUP presents detailed information on the location, access, harvest methods, duration, and proposed reforestation for each sale. The public is asked to comment at this stage, as well. By getting the best available data, combined with a series of public processes that helps us gather information from the public and other agencies, we make well-informed decisions about uses of resources on state land.

II. LEGAL AUTHORITY

The Division is taking this action under the authority of AS 38.05.035(e) (Best Interest Finding); AS 38.05.110-120; 11 AAC 71 (Timber Sale Statutes and Regulations); AS 41.17.010-.950 and 11 AAC 95 (Forest Resources and Practices Statutes and Regulations); and AS 46.39 and 46.40 and 11 AAC 110, 112, and 114 (Alaska Coastal Management Statutes and Regulations).

III. ADMINISTRATIVE RECORD

The DOF files its timber sale documents by timber sale name and number. The Old Pioneer Lane Timber Sale file is labeled SC-3182K.

IV. Description of Timber Sale Area

A. Physical characteristics

Topography

This proposed sale is situated within a geographical area that is characterized by flat to gently rolling glacial outwash terrain. It is approximately 100 to 150 feet above sea level and local relief averages no more than 5 percent in slope.

Soils

According to the National Resource Conservation Service (NRCS) Web Soil Survey site, there are three primary soils within the sale area: Qutal silt loam, Redoubt silt loam, Starichikof and Doroshin silt loam. The basic profile of all three of these soils consists of an organic peat layer over silt loam; gravel originating from glacial drift is the underlying base. Qutal silt loam is within approximately 70 percent of the sale area; it is composed of ash over glacial drift as the parent materials. Compared to other nearby soils, it is poorly drained, and is often over a high water table (NRCS Web Soil Survey, 2009). However, water infiltration through this soil is sufficient to support spruce and hardwood species. Redoubt soils are relatively better drained than the other two soils mentioned above, and cover approximately 20 percent of the sale area. The Starichikof and Doroshin soils underlie the muskeg areas that surround the harvest unit. They are characteristically poorly drained and support boggy ecotypes.

Water bodies

There are no streams within the sale area. An unnamed tributary of the North Fork of the Anchor River lies southeast of the sale area. The stream is approximately 600 feet from the closest point of the proposed harvest unit. No water crossings are expected to be needed on the access road into the sale area from Old Pioneer Lane. The sale area presents no obstacles that would prevent implementation of the best management practices of the FRPA for maintaining the water quality during proposed operations. This sale is located on the western edge of the Kenai Peninsula lowlands. Almost half of the sale area is surrounded by muskeg. The dry areas of the sale area are dominated by mature white/Lutz spruce, often mixed with paper birch and occasionally aspen. Black spruce fringes often occur in the transitional zone between dry forested uplands and wet riparian or muskeg sites.

Stand Conditions

The stand composition within the sale area is approximately 70 percent Lutz Spruce (*Picea X lutzii* Little) and 30 percent paper birch (*Betula papyrifera*). On the Kenai Peninsula, there are natural hybrids between white spruce and Sitka spruce (*Picea glauca X sitchensis*). This hybrid is called Lutz spruce (*Picea X lutzii* Little). Researchers believe that this hybridization (a hybrid swarm) occurs at varying degrees with some trees showing strong white spruce characteristics, while others will show strong Sitka spruce characteristics. Due to the extensive beetle mortality, stem breakage is occurring, resulting in opening up the stands. The site index for spruce in the sale area is 70 feet within 100 years, (NRCS Web Soil Survey—Alaska 2009.) Basal area of spruce, prior to the infestation, averaged 150 square feet per acre. Average age of the overstory spruce is 160+ years. Mature spruce trees (now dead), that were 8 inches diameter in breast height (DBH) and larger, ranged from 170 to 250 trees per acre. The average stand DBH is 12 inches, with an average height of 60 to 65 feet. Birch trees are few and widely scattered. The birch are old and in poor vigor. They are disappearing out of the stand. Advanced regeneration in the form of spruce seedlings is approximately 100 per acre. Birch regeneration has been heavily browsed by moose.

There will be considerable changes to the living forest stand structure including: reduction in average age of surviving trees, lower average DBH, lower average tree height, and decline in stand density. At least eighty percent all spruce 9 inches DBH and greater are dead from spruce beetles. Although the area came under attack by beetles in the mid 90's, many larger spruce trees have lost significant amounts of bark. Wood decay is advancing as evident by increasing wind-snap, soft borings and prevalence of *Fomitopsis pinicola*. Approximately 15% of the spruce in the 9-inch and larger DBH classes are green. Residuals initially consist of suppressed and intermediate spruce resulting in decreased canopy cover (Schmid and Frye 1977). Also, stand species composition may be altered.

There are a number of successional pathways that may occur. Natural spruce regeneration occurs when there is an adequate supply of viable seed and an appropriate seedbed (INFEST #9). Often what has occurred in unmanaged stands is a significant influx of grass and a lack of an appropriate seedbed for tree regeneration. Due to the degree of spruce mortality, the amount of viable local seed is questionable.

Light levels of bluejoint reedgrass (*Calamagrostis canadensis*) are present throughout the area and increasing in locations receiving additional sunlight from the loss of canopy cover. Grass competition with regeneration is expected to be high. Bluejoint reedgrass quickly establishes itself in stands killed by spruce beetle. Because this grass lowers the soil temperature and is such an aggressive competitor, it inhibits the regeneration of both tree seedlings and browse species (Lieffers, et al 1993). One study indicates that even after 11 years, no natural tree or browse regeneration had occurred (Holsten, et al 1995). Species diversity is declining in the forested stands and bluejoint reedgrass is becoming more dominant. Within two to four years following mortality, beetle killed trees begin to wind-snap and fall to the ground. The time-span between mortality and having the tree break-off and fall to the ground appears to be a function of the level of decay in the base of the tree at the time of mortality. In addition to *Calamagrostis*, other understory species in the area include rusty menziesia, twisted stalk, equisetum, Beauverd spirea, Labrador tea, prickly rose, crowberry, oak fern, feather mosses and club moss.

Fire and Fuels Mitigation

Of the three main factors affecting fire behavior (fuel, weather, and topography), fuel is the only component over which some measure of management may be exerted. Extensive fuel management is the only option for mitigating potential losses (Beaver 1997).

The spruce beetle infestation during the 1990's resulted in the most significant ecological impact of any natural agent of change in Alaska (USDA 1996). Spruce beetles are greatly influenced the composition of forests by killing most spruce trees over 6 inches in diameter. In forest stands composed almost entirely of spruce, the effects to the forest structure caused by the bark beetle epidemic were dramatic. The almost total loss of mature seed bearing trees over large landscapes will have very long term and profound affects on spruce production on the Kenai Peninsula.

Over time, decaying spruce fall over, forming concentrated piles of jack-strawed trees. This provides a means for surface fires to accelerate the transition to crown fires in the remaining canopy. The heavy concentration of fuel will be available for combustion for many years.

The spread of fire is greatly enhanced in beetle-killed spruce. The amount of dead and dry fine material, such as Old Mans Beard lichen, that is contained in standing dead trees aids spot fire occurrence. Dead

material down wind of a fire creates a condition where hot embers initiate new fire starts with much greater frequency when compared to green live forests (personal observation W. Wahrenbrock, DOF).

Another factor affecting the fire risk of forests is the probability of ignition. Probability of ignition is an expression of how easily a fire will ignite. Dead spruce with low moisture content will ignite far more readily than green spruce. Lightning has historically been an infrequent cause of fire ignition on the Kenai Peninsula (See 1998). However, wildland fire research scientists have stated that the potential for lightning fire ignitions is higher in expanses of snags versus live trees (Alexander and Stocks 1997).

Increased fuel loading on the ground surface will extend the fire problem in fuel types that are known to be of short season duration. Specifically, grass that evolves with increased exposure to sunlight usually only creates fire control problems during the early summer season before "green-up". The addition of large woody material from downed beetle killed trees will create fuel conditions that will support fire occurrence throughout the summer season. These fuel types have been observed to burn with high intensity. Fires in this fuel type burn 20 times faster and 6 times more intensely than the fuel type associated with healthy white spruce stands, particularly in the spring and early fall (See, 1997). Fires in downed spruce trees in grass fuels exhibit a high resistance to control by firefighters. This downed timber impedes access into a fire area by firefighters and will severely limit the use of tactical ground forces such as engines, dozers and hand crews. When suppressing fires during moderate environmental conditions, placing crews in this type of fuel poses a significant personal safety risk should winds begin to rapidly increase, change direction, or if sudden slope changes are encountered (J. Winters, personal observations, 1999 – 2007).

The advent of large landscapes of dead trees has also created a condition where fires will burn at high intensity but may not produce seedbeds that are receptive to forest regeneration. Several early season fires such as the Pot Hole Lake, Hidden Creek, and Crooked Creek fires, which resulted in suppression costs of \$6.6 million dollars, demonstrate this problem. Even though the dead spruce canopy of these fires burned with high intensity, surface vegetation consumption was low due to the high moisture content—typical of the early summer. Surveys of the Crooked Creek Fire revealed that the fire consumed only 2 to 3 centimeters (cm) of duff material and less than 2% of the surface area had exposed mineral soils (Berg 1996). The fire destroyed birch and live spruce, thus minimizing seed sources for both species.

B. Wildlife

The effects of the harvest activity will vary depending on species. Wildlife species that prefer mature and over-mature spruce stands will either be displaced or decline in numbers. Species preferring the grass-forb successional stage will likely increase in abundance (DF&G 1994).

Possible effects of the proposed timber harvest on several wildlife species are outlined below.

Bears

For black bear, the proposed timber sale includes areas with potential late summer and early fall berry crops. It is doubtful that winter denning sites exist on the block due to its proximity to residential development. No denning sites were identified during field reviews.

Increased vulnerability of local black bear populations to hunting is a function of road location and road density which, in turn, is related to the timber harvesting systems used and the level of logging activity (DF&G 1994). The silvicultural prescription, as mentioned above, retains a fringe approximately 100

feet wide of undisturbed forest for the purpose of providing wildlife cover. Approximately 300 feet of access road from the end of Old Pioneer Lane into the harvest unit will remain open for local residents to collect unmerchantable logs left at landings for firewood. Afterwards, the access road into the harvest unit will be blocked in a manner that reasonably prevents the access by highway vehicles.

The brown bear population on the Kenai is presently estimated to range between 250-300 bears (Schwartz, et al. 1999). To date, there has been no census for brown bears taken on the Kenai. There appears to be a healthy viable population (Sellinger personal communication, 2008). The highest densities of brown bears are in the forested lowlands and sub-alpine areas west of the Kenai Mountains. No denning sites were identified within the proposed timber sale during field reconnaissance. Additionally, the proposed sale does not occur within the elevation range commonly chosen for den sites by brown bears (Jacobs 1989). Again, due to the proximity of the timber sale to human development, the area is not expected to be utilized frequently by brown bears. In consideration for maintaining wildlife cover, a no-harvest zone will surround the timber sale area.

Increased access associated with resource development is of concern to wildlife managers (Sellinger, 2005). Roads associated with the timber harvest may cause behavioral changes with the bear population. Although evidence suggests that road avoidance behavior and habitat loss leads to changes in wildlife productivity and survivorship, there is little data currently available to support this hypothesis (Frederick 1991). Significantly, the demographic response by brown bears on the Kenai Peninsula has been an increase in the population. Since the 1950's the brown bear population on the peninsula has increased to a current estimated population of 300 (Schwartz, DF&G 1997, personal communication). This is despite a human population increase on the Kenai Peninsula from 9,053 in 1960 to 53,409 in 2008 (US Census Bureau, 2009).

These areas may have been relatively secure because potentially aggressive adult males avoided them (McLellan and Shackleton 1988). Several researchers reported that adult bears in open sites usually retreated to cover when a vehicle approached within 300 meters (984 feet). However, researchers McLellan and Shackleton found that bears fled even further when approached by people on foot; in 5 of 9 cases when bears in remote areas were approached by humans, bears fled for distances greater than 1 km (0.6 miles), or out of the immediate drainage (Frederick 1991). This illustrates that bears find vehicular traffic less threatening than people on foot. This may be attributable to habituation.

To maintain and potentially increase the brown bear population on the Kenai Peninsula, DF&G continues to adjust hunting seasons for brown bears.

The primary impact of harvesting may be on the home range of resident bears. However, research suggests that home ranges for brown bears can cover tens to hundreds of square miles and because of this variability; the concept of home range size is not very useful (DF&G 2000). Use of salmon spawning streams are clearly important for brown bears during the summer and fall, however, only the North Fork of the Anchor River to the south of the timber sale has spawning salmon.

In the fall, bears travel great distances to feed on devils club berries in the mountainous portion of the peninsula (Collins, DF&G 1998, personal communication). Berries, where present, are also an important summer and fall food item for brown bears (Suring 1998). There are some small devils club patches within the timber block, but they are infrequent. In the spring, bears' diets often consist of skunk cabbage (*Lysichiton americanum*), grasses (*Calamagrostis spp.*) and horsetail (*Equisetum spp.*),

which are widely distributed across the peninsula. Logging can benefit grizzly bear populations if production of berry producing shrubs is increased. Bears consume ungulate carrion and are effective predators on moose. Recent research has shown that spring and early summer range is important because brown bears are very efficient predators of moose calves (Charles C. Schwartz, DF&G, personal communication 1997). Generally, the areas of highest habitat value include areas with southern aspects and wet habitats within defined ungulate winter range (Suring 1998).

The availability of security cover is considered important in how brown bears are influenced by human activities. Brown bears are at least twice as likely to be displaced from open areas where they can see or be seen by humans (Suring 1998). The portion of the sale area adjacent to muskegs will have a 100-foot-wide no-harvest buffer. However, the harvested portion of the timber block will provide little cover for bears until the regeneration reaches an adequate height.

Moose

Within the boreal forest, moose are generally more closely associated with forest cover in summer than in winter. This may reflect a preference for forage that is higher quality as a result of delayed plant development or different plant characteristics. Cows may prefer to calve and bed their newborns on forested knolls or other vegetated high points from which predators are more easily detected. These features may also present varied escape routes that require minimal energy expenditure by calves (Collins 1995).

As the dead spruce fall to the ground, escape routes will diminish and it is likely that energy expenditure by newborn moose (neonates) for escape will be increased. DF&G (2003) notes that increasing deadfall over time will make moose travel through these areas more difficult.

While biologists recognize the importance of overstory disturbance in the boreal forest in terms of enhanced production of moose browse, recommendations for the size and shape of the forest openings vary greatly from 5 acres to a square mile or more. Generally, the most important reported relationship between size/shape of created openings and their utilization by moose is related to seeding distance and establishment of important species (Collins 1995). While birch is not the dominate species of the existing stand, we have seen several similar areas on the southern peninsula where birch has contributed to the regeneration of the harvest sites and contribute to browse production.

Cover is more important in summer conditions; moose have an efficient way of keeping warm in severe weather but are less efficient in moderating the effects of high summer temperatures that can cause them to overheat (INFEST #6). The buffers along the muskeg will provide some cover, but the harvested areas will not provide shading and calving areas.

Whole-tree skidding or skidding with the top attached to the last log will reduce the amount of slash left in the harvest area. This will reduce the potential of physically hindering moose use of the area, and reduce energy output during winter travel.

Other Furbearers

It is anticipated that harvest operations will likely reduce available prey for ermine for an extended period of time. Unharvested areas, snag retention and muskeg leave areas will also offset some of the impact on ermine habitat.

Mink use of the area, both presently and post-harvest is expected to be low. Mink are commonly found near streams, ponds, marshes, beaches, or muskegs. The aquatic and riparian habitats are the most important mink habitat and proposed harvest within the sale will provide for a leave retention area along the wetland areas adjacent to harvest areas.

River otters, like mink, prefer aquatic and streamside habitats. Timber will be retained along any streamside areas within the sale.

Lynx occur throughout the general area. Lynx will use early successional habitats resulting from timber cutting, but require proximity to mature mixed forests (DF&G 1994).

As the spruce forest on the peninsula dies, red squirrel populations will decline as squirrels move to nearby lower quality, marginal habitats where food may be available (DF&G 1994). Cover habitat for squirrels also declines after the first two years as trees lose their needles. The absence of conifers makes the squirrels more susceptible to predation from raptors and larger mammals (USFS 1994).

Similarly, the proposed prescription for harvest will reduce squirrel numbers, but populations will likely remain intact, though at lower densities than prior to timber harvest (DF&G 1994). Ground cover and security from raptors will likely increase with the reforestation practices that are being incorporated. By ensuring quick reforestation after harvest, quality habitat conditions for red squirrels should be achieved in a much shorter time than in the unmanaged beetle killed forest.

Birds

Spruce grouse are also affected by the loss of spruce trees to the spruce beetle primarily through the loss of winter feeding habitat (DF&G 1994). Gradual loss of escape and thermal cover habitat will also occur as the spruce trees lose their needles and eventually fall over (DF&G 1994). The decreased winter food supplies (loss of spruce needles and buds) may displace grouse into areas of lower quality habitat that could increase nutritional stress, and lead to increased mortality (DF&G 1994). Predators associated with grouse, such as owls and goshawks, can be expected to show a response to the increased vulnerability of individual birds displaced by the infestation (USFS 1994). In large-scale infestation areas increased amounts of deadfall, grass, and other debris will impede grouse reproductive displays and reduce summer feeding habitat (DF&G 1994). The end result of no treatment of these dying stands will be a decline in local spruce grouse populations (USFS 1994).

Harvest operations will have similar effects. The loss of canopy will result in increased mortality from predation because of more visible nests and loss of protection from inclement weather (DF&G 1994). Leave areas will help to offset this loss to the extent that they are useful. Scarification, where feasible, and quick reforestation efforts will help to create more suitable habitat conditions in a shorter period of time than if left in an unmanaged condition.

The spruce bark beetle infestation has increased the number of snags and downed woody material, likely benefiting cavity-nesting birds such as woodpeckers, some owls, brown creepers, nuthatches, and chickadees (DF&G 1994). Most snags are beetle-killed spruce. However, mature hardwood stands that

contain some hardwood snags offer the most cavities. This is due to the morphological differences between spruce and hardwoods. Living spruce seldom has soft heartwood preferred by cavity nesters. Spruce that die usually falls to the ground within 10 years, which is the time it takes for the heartwood to soften. The larger diameter birch, aspen, and cottonwood trees are more important than spruce for cavity nesters, however, there is very few birch within the timber block and no aspen or cottonwood trees. Spruce snags of 3-4 per acre will be retained for wildlife use. After the beetle outbreak subsides, woodpeckers will still benefit from the large numbers of secondary insects (*cerambycids*, ants, other *scolytids*) present, but this food abundance should only last 2 to 3 years (Schmid and Frye, 1977). The feeding value of these insects for woodpeckers will decrease because they are generally fewer in number and less accessible (they feed in deeper recesses in the wood). After these insects decline, the bird population is also expected to decline because of a lack of food. As the needles and bark fall off dead trees over time, these populations will also decline because of the reduction in available food and cover (DF&G, 1994).

The potential effects from a timber harvest on cavity-nesting and other non-game birds will be the shortage of suitable nesting trees, which could result in lower numbers of birds. The conversion of sites to early successional stages could result in a shift in bird species composition to favor birds that prefer grass, shrub/forb, and sapling habitats (DF&G 1994).

Fisheries

This sale should have no effect on fisheries. An unnamed tributary of the North Fork of the Anchor Point River lies approximately 630 feet southeast of the sale area. This stream has not been surveyed for the presence of anadromous or high-value fish. Nonetheless, no timber harvest will occur closer than 630 feet from the stream. There are no streams within the sale, so no new stream crossings will be developed. Because of the flat terrain timber harvest and road building activities are not expected to cause sedimentation into water bodies. Buffers around the muskegs will prevent sedimentation into these wetlands.

C. Human Activity and Social Considerations

Hunting

Due to other popular hunting locations on the Kenai Peninsula, hunting activity is expected to be primarily from local residents. This timber sale is not expected to affect hunting pressure, due to the relatively small size of the timber sale. The added hunting pressure is not expected to be significant relative to the extent of hunting opportunity on the Peninsula. The Alaska Department of Fish and Game is responsible for setting hunting regulations, including restricting hunting areas.

Subsistence

The subject area has not been designated as a subsistence zone. Under current state law, subsistence harvest opportunities within the sale area have been incorporated in general hunting and fishing regulations (DF&G 10/23/94). There are the following possible subsistence uses in the area: trapping, hunting and gathering of berries. The effects of the spruce beetle infestation and the proposed timber harvest on wildlife species of interest to both trapping and hunting are detailed above in the two wildlife sections. Most of the *Vaccinium* species prefer open forest conditions, which would tend to indicate that the berry crops might do well as the stands open up. However, Holsten, et al. (1995) indicated that on untreated beetle killed sites, lowbush cranberry decreased in number and on burned sites it doubled. It is anticipated that the berry crop will not be significantly affected by the proposed treatment.

Recreation

There is probably some recreational use by local residents. The harvest is not anticipated to significantly disrupt historical uses. There are no established motorized or non-motorized trails within the sale area. The area may be used for moose hunting in the fall, but there was no evidence of any established camps or recreational use sites.

This area is not known to have unique tourism values. At this time, there are no commercial recreation operations that use this area.

Scenic resources

Due to the relatively flat topography, the distance from the Sterling Highway, and the surrounding forest on private land, this sale will not likely be noticeable. This sale will be visible from aircraft, snowmobiles, and ATVs. Residents and visitors to Alaska consistently rated forest vistas damaged by spruce beetles lower in scenic beauty, and the more tree mortality present the lower the perceived scenic beauty. Both residents and visitors cite loss of scenic values as an important effect of beetle damage.

Visitors consistently report sightseeing as a dominant activity, and indicate views seen as a major factor affecting the quality of their visit to Alaska. Respondents of a USFS study consistently preferred preventative thinning treatments to a no-treatment scenario. For forested areas already severely impacted by spruce beetle, respondents preferred the visual conditions produced by rehabilitation strategies that resulted in more rapid regeneration of forest cover. From a list of proposed actions including a no action alternative, respondents continued to prefer actions which would include cutting and removing dead trees, even if selling them would only recover part of the costs (Daniel et. al. 1991).

Cutting and removing the dead trees was also chosen over the possibility of burning a site for forest regeneration. Similar results were obtained in other studies within the U.S. (Orland, 1997 and Orland et. al. 1993).

Cultural resources

The Office of History and Archaeology and the State Historic Preservation Office (SHPO) reviews each Five-Year Schedule of Timber Sales and each Forest Land Use Plan for possible impacts to cultural resources. This Forest Land Use Plan will be distributed to the SHPO for review. The Office of History and Archaeology has reviewed the proposed sale and found no cultural or historical sites within the sale area (Krauthofer, 2009). Areas identified as historic, archaeological, or paleontological sites are protected as outlined in the Kenai Area Plan. During the course of activities associated with this timber sale, cultural and/or paleontological resources may be inadvertently discovered. If such a site is discovered, the Division of Forestry will protect the site and contact the SHPO.

Under the Alaska Historic Preservation Act (41.35.200), all burials on state land are protected. If burials or human remains are found, all land-altering activities that would disturb the burial or remains shall cease and measures will be taken to protect it in place. The Office of History and Archaeology and a law enforcement officer will be notified immediately to ensure that proper procedures for dealing with human remains are followed.

D. Sustained yield and allowable cut

The Alaska Forest Resources and Practices Act [AS 41.17.060 (c)] and Article VIII Sec. 4 of the State Constitution require that state forest land be managed on a sustained yield basis. Sustained yield is defined in the Alaska Forest Resources and Practices Act [AS 41.17.950(15)]:

"Sustained Yield" means the achievement and maintenance in perpetuity of a high level of annual or regular periodic output of the various renewable resources of forest land and water without significant impairment of the productivity of the land and water, but does not require that timber be harvested in a non-declining yield basis over a rotation period.

This sale complies with sustained yield/allowable cut principles outlined in the Kenai-Kodiak Area's Five Year Schedule of Timber Sales for 2009 - 2013.

E. Silviculture and Timber Harvest

The silvicultural prescription selected for spruce in this sale is salvage harvest, while keeping green reserves. All merchantable dead or infested spruce larger than 6 inches in DBH will be removed. Live spruce greater than 11 inches diameter at breast height will be allowed for harvest. After harvest, the resulting stand will consist of multi-age spruce, due to the age diversity of the seedlings and pole-sized trees left in the stand. Trees along the edges of muskegs, as well as pockets of sub merchantable within the harvest units will be retained for the purpose of wildlife cover.

Birch is present in this stands; however it averages less than 5% of the total stem density. Birch is a prolific seeder, but viability of seed is potentially low due to age and vigor of the birch. Birch trees are not expected to grow to maturity in large numbers in the sale area, due to moose browse. The birch is not expected to contribute significantly to regeneration of the harvest area. In order to promote vegetative reproduction of birch as well as seeding, trees greater than 11 inches in diameter at breast height will be allowed for harvest at the discretion of the state.

Logging will not be authorized during spring break-up, which usually occurs during a period from mid-April to June 1. The length of time to complete the harvest operations will be two years. The contract will require that care be taken to minimize damage to residuals.

Delimbed tops will be re-scattered and allowed to decompose or will be burned. Some piles will be retained for their wildlife values. Large amounts of nutrients such as phosphorous, nitrogen, and to a lesser extent for other mineral elements, are stored in the foliage, twigs, and branches; smaller amounts are in the main trunk of the tree (Bartels 1985). This material (limbs, twigs, and needles) is an important source of nutrients for the next stand of trees; typically over 95% of the nitrogen is contained within this material (Perry, et. al. 1989). Disposal of green or infested spruce material larger than five inches in diameter shall be in accordance with the standards set in 11 AAC 95.195(b) of the Forest Practices Regulations. Stump heights will be kept as low as feasible, typically less than one foot.

Logging may be allowed in the summer at the discretion of the state, if it does not cause erosion or degradation of water quality. Logging will not be authorized during spring break-up, which usually occurs during a period from mid-April to June 1. The length of time to complete the harvest operations will be two years. Directional falling may be required to protect 70 percent of the seedlings, saplings and pole-sized residuals. The contract will require that care be taken to minimize damage to residuals.

The State will conduct regeneration surveys within 2 years following harvest to determine if artificial regeneration will be necessary. Planting may be necessary on sites lacking sufficient regeneration to meet stocking standards. Planted spruce seedlings will be grown from locally collected seed. This proposal may be adjusted post-harvest depending on the success in protecting residual seedlings and saplings.

Regeneration surveys will monitor trends of survival and species composition and also help to determine if any further reforestation effort is required to meet the reforestation requirements of the Forest Resources and Practices Act (11 AAC 95.375).

F. Transportation

The access route to this timber sale is at the end of Old Pioneer Avenue, which extends from Cape Ninilchik Avenue. Cape Ninilchik Avenue extends east from the Sterling Highway near Mile 153.9. According to the Department of Natural Resources status plat that encompasses the land north of this sale area, the easement for Old Pioneer Avenue extends to the property line in which the proposed sale area lies.

G. Erosion

This proposed sale is on relatively flat terrain; the overall slope is less than ten percent grade. Moreover, there are no streams within the proposed site.

H. Mining

There is no known mining activity in this area and therefore no effect.

I. Materials

This proposed harvest will not preclude future development of a material site.

V. MARKET CONDITIONS AND ECONOMICS

The local market includes domestic sawlogs, house logs and firewood. Most of the timber from this sale area will probably be sold and utilized as firewood. The cost of heating oil on the Kenai Peninsula rose sharply in 2008 and has remained unstable. The demand for firewood has increased noticeably over the previous two years. Consequently, firewood sold for \$125 to \$150 per cord in 2007. If firewood prices continue to rise over the next year, firewood may become as economically viable as sawlogs. Firewood will likely be in greater public demand than either sawlogs or house logs.

Currently, there are six timber sales under contract with the DOF. Logs from these sales are being sold to three individually owned small sawmills in the area. An increasing proportion of the timber from these sales is being sold for firewood.

The economic conditions in the general vicinity of this proposal are fair. The current local economy is based on oil and gas industry, tourism, commercial and sport fishing, logging, retail, and government employment. The Kenai Peninsula Borough historically has had a high seasonal unemployment rate. Timber harvest within the area, which can be harvested in the winter, may provide employment opportunities during what has traditionally been the off-season.

The sale offered under this proposal will be appraised based on market values of similar local timber sales, and will be sold at fair market value.

VI. ALTERNATIVE ACTIONS

There are four possible alternatives to consider for this sale. A discussion of each of the four alternatives follows:

1. Proceed with the sale(s) as proposed. This alternative meets the objectives of the Five-Year Schedule of Timber Sales and one of DNR's mandates to make the state's renewable resources available for public use. It also meets the silvicultural objective of improving forest vigor, provides for a value-added end product and creates additional local jobs due to the combination of road building, logging, and trucking.

2. Modify the sale(s) by making them smaller or larger. This sale is intended to be large enough to be economically viable for mechanical logging methods. Increasing the size of the harvest unit will eliminate the surrounding no-harvest buffers which are intended to provide visual cover for wildlife. Decreasing the size of the sale area will reduce the supply of firewood and leave more timber to further deteriorate on the site and exacerbate the wildfire fuel loading. This sale is large enough to cover the costs of constructing access roads and cover the mobilization costs to operate in the Anchor Point area under historic conditions. This sale is appropriately balanced to maintain other resource values as well as provide economic benefits to the Kenai Peninsula.

3. Defer the sale of this timber to a later date. Deferring harvest to a later date would fail to meet many of the objectives of the sale program. One of the main objectives is to try and make state-owned timber consistently available to the timber industry.

4. Not offer this timber for sale. This alternative would result in not meeting any of the objectives outlined for this management action. Utilization of the forest resource would not be achieved. There would be no significant contribution to the state and local economies. This alternative would delay the management objectives planned for the area, would deny making a source of raw materials available to the local wood products industry, and would delay the harvest of dead trees, mature trees, disease infected trees, and trees at risk to insect infestation. Decay in infected and infested mature spruce and birch trees results in loss of economic value.

VII. ACMP CONSISTENCY ANALYSIS

This area is within the Kenai Peninsula Borough District Coastal Program. There are no known natural hazard areas, or areas of historic or archaeological importance within the proposed sale area. There is no coastal development occurring in the area and the proposed sale will not inhibit coastal access to the public. No energy facility, utility route, or utility facility exists or will be developed as a result of this action. No sand or gravel will be extracted from coastal waters, intertidal areas, barrier islands, or spits. The area has not been identified as a subsistence area under 11 AAC 114.250(g) and any subsistence use is thought to be minimal. Therefore, the sale does not conflict with the standards on coastal development, natural hazard areas, coastal access, energy facilities, utility routes and facilities, sand and gravel extraction, subsistence, and historic, prehistoric and archeological sites.

Road construction and timber harvesting activities will adhere to the Forest Resources and Practices Regulations (FRPA), meeting timber harvest and processing standards.

This offering is consistent with the ACMP habitat standards because 11 AAC 95.185(g) preempts the habitat standards enacted under 11 AAC 112 and 11 AAC 114, and the proposed action has been designed to be consistent with the Forest Practices.

The laws and regulations regarding timber harvest and the quality of air, land, and water administered by the Department of Environmental Conservation will apply ensuring consistency.

VIII. OBJECTIONS, COMMENTS, AND ALTERNATIVES RECEIVED

Pursuant to AS 38.05.035, the preliminary decision—land use plan for this proposed timber sale was distributed to the public as well as concerned agencies during a review period that took place December 16, 2009 until January 22, 2010. To date, no comments were received by the public regarding this proposed sale. The only agency to comment was the Department of Environmental Conservation pursuant to Alaska Coastal Management Consistency, under Part C. page 3 of this document.

IX. FINAL FINDING, and DECISION

The purpose of this decision is to determine if the Department of Natural Resources, Division of Forestry, will make available timber located in Section 26, Township 4 South, Range 15 West, in the Seward Meridian. After due consideration of all pertinent information and alternatives, the DNR has reached the following **Final Decision: To offer the sale as proposed in Alternative 1.** The DOF finds that this final decision satisfies the objectives as 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). A person affected by this decision who provided timely written comment may request reconsideration, in accordance with 11 AAC 02. Any appeal must be received by **April 6, 2010**, and must be mailed or delivered to Tom Irwin, 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@dnr.state.ak.us. If reconsideration is not requested by **April 6, 2010** or if the commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on **April 6, 2010**. 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 Hans Rinke of the Kenai / Kodiak Area Office at (907) 260-4210 or e-mail hans.rinke@alaska.gov.

Signature on File
Mike Curran—Coastal Regional Forester

March 16, 2010
Date

Abbreviations

ADFG: Alaska Department of Fish and Game
BMPs: Best Management Practices
DBH: diameter at breast height
DEC: Department of Environmental Conservation
DLP: Defense of Life and Property
DNR: Department of Natural Resources
DOF: Division of Forestry
FF: Final Finding (Forest Land Use Plan)
FLUP: Forest Land Use Plan
FRPA: Alaska Forest Resources and Practices Act
FYSTS: Five Year Schedule of Timber Sales
KAP: Kenai Area Plan
ORV: off-road vehicle
PD: Preliminary Decision (Forest Land Use Plan)
SHPO: State Historic Preservation Office

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Kenai Area Plan: <http://www.dnr.state.ak.us/mlw/planning/areaplans/Kenai/index.cfm>

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. [11 AAC 02.900, Definitions, below.] This Final Finding has been signed by the commissioner.

TITLE 11. NATURAL RESOURCES.

CHAPTER 02. APPEALS.

Section	Section
10. Applicability and eligibility	50. Hearings
15. Combined decisions	60. Stays; exceptions
20. Finality of a decision for purposes of appeal to court	70. Waiver of procedural violations
30. Filing an appeal or request for reconsideration	80. (Repealed)
40. Timely filing; issuance of decision	900. Definitions

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 38.04.900	AS 38.08.110	AS 41.15.020
	AS 29.65.050	AS 38.05.020	AS 38.09.110	AS 41.17.055
	AS 29.65.120	AS 38.05.035	AS 38.50.160	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) A decision of the department may include a statement that a final consistency determination under AS 46.40 (Alaska Coastal Management Program) has been rendered in conjunction with the decision. A person may not, under this chapter, appeal or request reconsideration of the final consistency determination, including a requirement necessary solely to ensure the activity is consistent with the Alaska coastal management program as approved under AS 46.40. (Eff. 9/19/2001, Register 159).

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

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@dnr.state.ak.us.

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

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

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

11 AAC 02.080. DEFINITIONS. Repealed. (Eff. 11/7/90, Register 116; repealed 9/19/2001, Register 159)

Editor's note: The subject matter formerly set out at 11 AAC 02.080 has been moved to 11 AAC 02.900.

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)

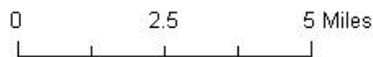
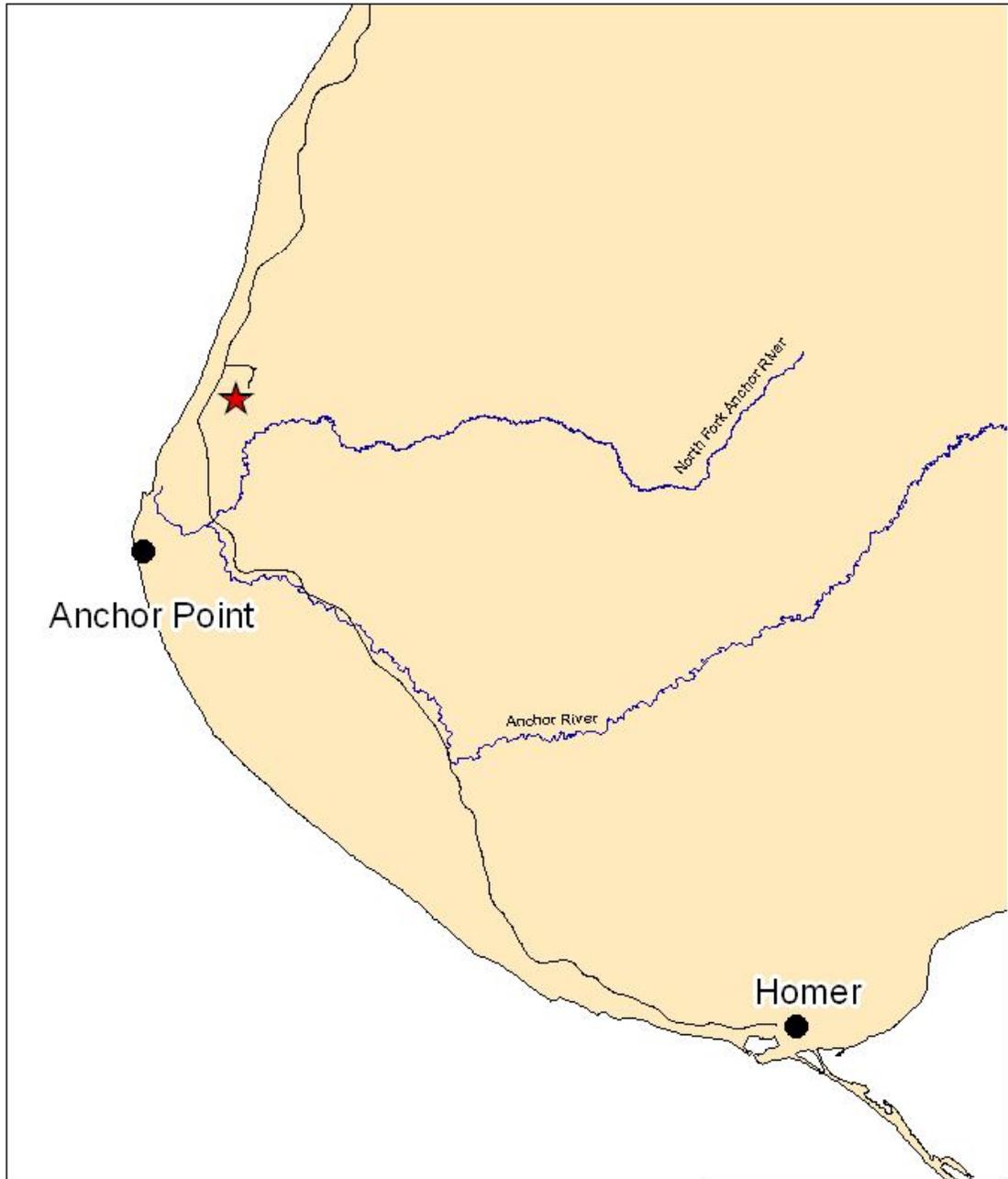
Authority:	AS 03.05.010	AS 38.05.020	AS 38.09.110	AS 41.17.055	AS 44.62.540
	AS 29.65.050	AS 38.05.035	AS 38.50.160	AS 41.21.020	AS 46.15.020
	AS 29.65.120	AS 38.08.110	AS 41.15.020	AS 44.37.011	AS 46.17.030
	AS 38.04.900				

Editor's note: The subject matter of 11 AAC 02.900 was formerly located at 11 AAC 02.080. The history notes for 11 AAC 02.900 does not reflect the history of the earlier section.



Old Pioneer Timber Sale SC-3182 K Vicinity Map

Township 4 South Range 15 West
Section 26 of the Seward Meridian

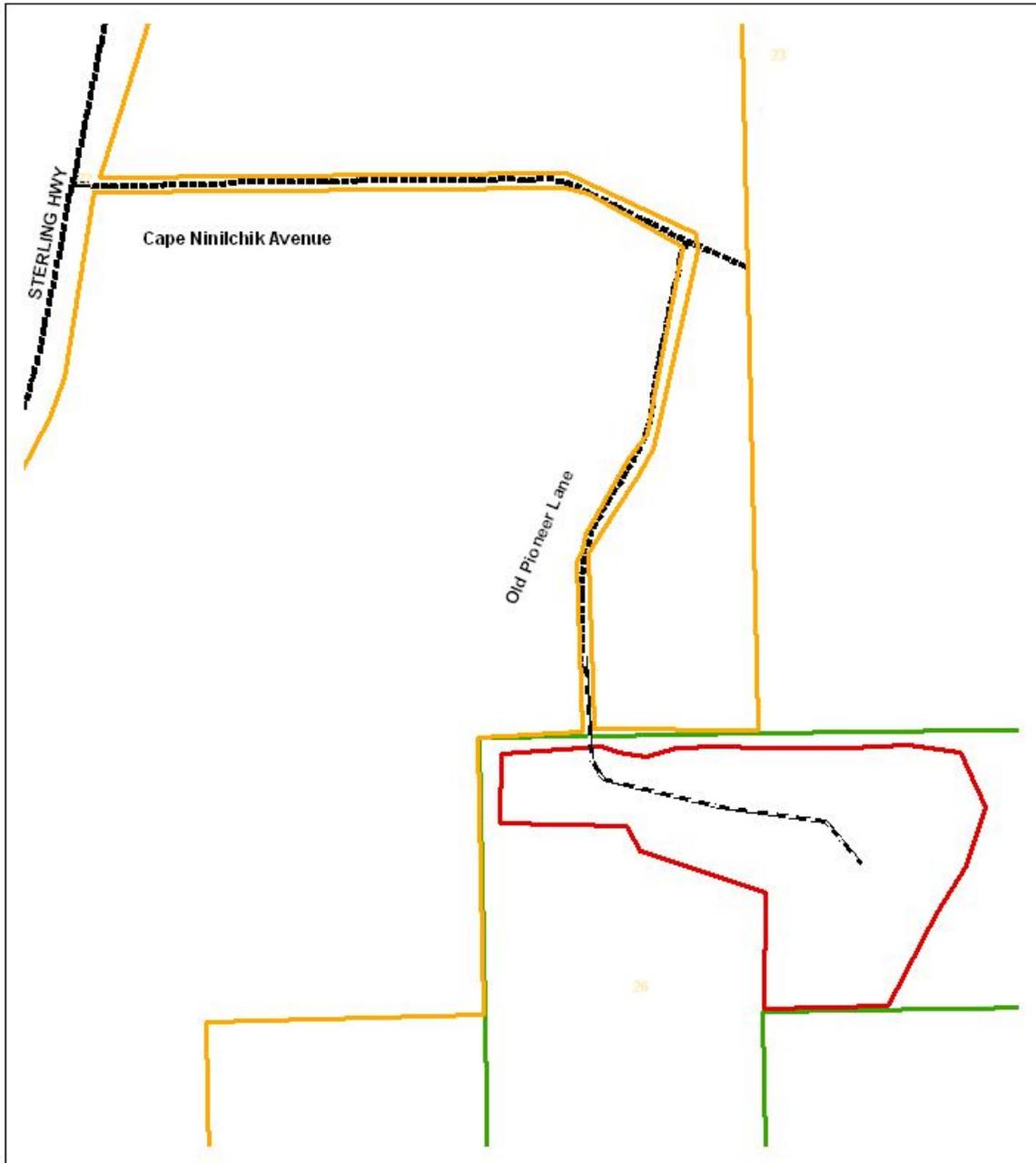


Division of Forestry
Room - 4000A
4249 Sterling Highway
Sitka, Alaska

Sale Maps

Old Pioneer Timber Sale SC-3182 K 40 Acres

Section 26, Township 4 South
Range 15 West, Seward Meridian



0 500 1,000 Feet

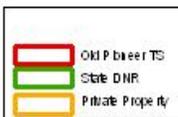


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March 22, 2010

Old Pioneer Timber Sale
SC-3182 K
Final Finding

Old Pioneer Timber Sale SC-3182 K
40 Acres

Section 26, Township 4 South
Range 15 West, Seward Meridian



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