

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FORESTRY & FIRE PROTECTION**



FAIRBANKS-DELTA AREA FORESTRY

**FINAL BEST INTEREST FINDING AND
DECISION FOR**

**100 MILE FIRE SALVAGE
NC-1698-D, NC-1739-D, NC-1743-D, NC-1851-D
DECEMBER 15, 2022**

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I. PROPOSED ACTION

DOF is proposing to offer for sale approximately 424 acres of spruce fuel wood from State General Land within footprint of the 2014 100 Mile Creek Fire. The proposed sale area is on land managed by the Division of Mining, Land, & Water (DMLW) as Unit D-21 of the Eastern Tanana Area Plan (ETAP). The volume to be offered totals approximately 695 MBF or 1,696 CCF. DOF would sell the timber as multiple separate competitive bid contracts for commercial use. For this timber sale, the BIF and FLUP were issued for review at the same time. The land covered by this BIF appeared in the 2022 Northern Region Five Year Schedule of Timber Sales.

The management objectives for the proposed timber sales are:

- Provide the raw material for the industry to produce timber products providing benefits to the state and local economy through employment opportunities.
- Harvest the commercial sawtimber and fuelwood before a significant decrease in fire salvaged wood merchantability occurs and return the site to a young productive mixed stand forest.
- Provide firewood for the residential heating needs of interior Alaska communities.
- Promote multiple use management that provides for the production, utilization, and replenishment of timber resources while perpetuating personal, commercial, and other beneficial non-timber uses of the forest resources.

II. STATUTORY AND REGULATORY AUTHORITY

The Division is taking this action under the authority of

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

III. ADMINISTRATIVE RECORD

The Division will maintain an administrative record regarding the decision of whether or not to proceed with the action as proposed. This record will be maintained at the DOF's Fairbanks-Delta Office filed as NC-1698-D, NC-1739-D, NC-1743-D, and NC-1851-D.

IV. SCOPE OF DECISION

This final best interest finding (BIF) completes step three of a six-step process to design, sell, and administer timber sales. 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

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when designing and implementing sales. Subsequent land use decisions must be consistent with the area plans. The area in this BIF is covered by the 2015 Eastern Tanana Area Plan (ETAP). The finding also considers the Interagency Wildland Fire Management Plan, and the 2012 Delta Junction and Greater Delta Area Community Wildfire Protection Plan (CWPP).

Step 2: Five-year Schedule of Timber Sales (AS 38.05.113). A proposed timber sale must appear in at least one of the two Five-year Schedule of Timber Sales (FYSTS) preceding the sale. The land covered by this BIF appeared in the 2022 Northern Region FYSTS document.

Step 3: Best Interest Finding. A best interest finding is the decision document that:

- Ensures that the best interest of the State will be served by this proposed action,
- 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 424 acres of fire-salvage timber from state lands within the Delta River West area in a competitive bid sale for commercial use on 11/10/2022. DOF considered all written comments received during the 30-day review period. Responses to the comments are listed in Section VII.

This document is the final BIF for the 100 Mile Fire Salvage timber sales. An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may appeal the decision to the DNR Commissioner per AS 44.37.011 and 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 issued a FLUP for concurrent review with the preliminary BIF, and a final FLUP has been adopted for the lands covered by this BIF. FLUPs specify the site, size, timing, and harvest methods for harvest units within the sale area. FLUPs also address site-specific requirements for access construction and maintenance, reforestation, and multiple use management. FLUPs are based on additional field work, agency and community consultation, and site-specific analyses by the DOF, and will be subject to public and agency review.

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

V. PROJECT LOCATION, LAND STATUS, AND DESCRIPTION

A. Location

The proposed sales are located approximately 16 miles northwest of Delta Junction in the Tanana Flats. The units are located approximately 5 miles west of the Whitestone Crossing along the Rainbow Lake winter road west of the Delta River. These sales are within Unit D-21 of the 2015 Eastern Tanana Area Plan (ETAP), which is managed by AK Division of Mining, Land, and Water (DMLW). The units are not within any organized borough.

The proposed sales are located within Section 13, Township 9 South, Range 8 East, and Sections 16-20, Township 9 South, Range 7 East, Fairbanks Meridian. Sale access includes a winter road crossing Sections 11, 12, 14 & 15, Township 9 South, Range 7 East, Fairbanks Meridian. The sale area is shown on the attached map and is within the United States Geological Survey 1:63,360 Quadrangle map titled Big Delta A-5. Existing winter roads come within 5 miles of the harvest area, and a new winter road will need to be extended to the sales.

B. Title status

The acquisition for the land upon which the sale is proposed is based on General Selection 2285. The title was transferred to the State by issued patent 50-2019-0088. There are no known title restrictions on the area. The proposed sales are located within Unit D-21 of the 2015 Eastern Tanana Area Plan, and the Management Intent is for Forestry (F) and Habitat (Ha) uses per Classification Order CL NC-10-004.

C. Land use planning, classification, and management intent

The proposed sales and new winter road are entirely within the 2015 Eastern Tanana Area Plan (ETAP) in Unit D-21, which is co-designated for Forestry (F) and Habitat (Ha) uses. Further, Unit D-21 is recommended for inclusion in the Tanana Valley State Forest. There are no specific restrictions stated in the 2015 Eastern Tanana Area Plan that are applicable to this proposed project area. The proposed harvest unit is designed to be consistent with the management intent of ETAP. The area is open to subsurface use and mineral entry.

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

There is a Potential Hazards warning (ADL 419999) applicable to the sale area:

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Former bombing area south of Blair Lakes, west of Dry Creek. Located outside the installation boundaries of Fort Wainwright and Fort Greely on State land.

This 475,902 acre site is divided into two areas adjacent to the operational ranges between Forts Wainwright and Greely, and the Donnelly Training area. Rockets and bombs were dropped during training exercises between 1942 and 1973. The area was also used for air-to-air gunnery practice and tow target missions. Visual and aerial surveys and EM sweeps did not reveal any evidence of Munitions and Explosives of Concern (MEC) or Munitions Debris (MD) in 2006 and 2007. Evidence of fighting positions and bomb craters were identified during visual and aerial surveys in 2006 and 2007. The Fort Richardson 716th Explosives and Ordnance Demolition (EOD) team conducted an Unexploded Ordnance (UXO) sweep on June 7-8, 2007 but did not detect any UXO. Metal concentrations did not exceed screening levels in any soil or sediment samples collected in 2007. Cyclotrimethylenetrinitramine (RDX) was detected in one sediment sample at a concentration below the screening level. Numerous munitions-related explosions were reported in this area during the Carla Lakes forest fire in 1998. Fire crews located mortar rounds, M16 ammunition clips, and 30mm cannon shell casings. This site has been recommended for additional investigation for MEC and MC.

D. Current access and land use:

The proposed sales are located approximately 16 miles northwest of Delta Junction in the Tanana Flats. The units are located approximately 7.2 miles west of the Whitestone Crossing of the Delta River along the Rainbow Lake winter road. Residents of the Whitestone Community, Richardson-Clearwater remote recreational properties, and Southbank Homesteads use the winter road system to reach cabins and homes. An additional 5.5 miles of new winter road would need to be established mostly through the 1998 Carla Lake Fire burn scar. Forest management resulting in fire salvage harvest in the 2013 Mississippi Fire took place approximately 5 miles east of the proposed sale units. **Existing and new winter roads used to access the units will require some level of continuing maintenance to support commercial harvest equipment.**

The proposed sale area likely experiences low levels of use by recreationalists, hunters, or trappers due to few existing trails or winter routes. It may be expected that activities such as snowmachine riding, hunting and trapping, or personal use firewood gathering would increase if the winter road was established.

E. Background and description of proposal

1. Background: The proposed area includes productive stands of forestland burned in the 2014 100 Mile Creek Fire. DOF reviewed existing land use plans, considered markets for the burned timber, and designed this proposal to salvage as much timber as possible from state land within the burn perimeter, while protecting the fish, wildlife, and water resources, and avoiding impacts to local access, recreation uses and archaeological sites. DOF is offering these timber sales consistent with the guidance provided in ETAP.
2. Timber volume and sustained yield: The proposed project area has an estimated volume of 695 MBF or 1,696 CCF of spruce fuel wood timber on approximately 424 acres of land. Final harvest unit boundaries and timber volume estimates will be determined once DOF staff has completed all pre-sale field measurements. The Delta Area Annual Allowable Cut (AAC) is calculated at approximately 3,948 acres of harvest annually, but fire-killed timber volume is not summed with the AAC figure. Also, these sales will be offered over several years. The volumes proposed in this harvest and in combination with timber volumes from other proposed timber sales that are offered will be within the allowable cut and comply with sustained yield requirements.
3. Harvest unit design: Timber in the proposed sale areas will be harvested as a fire salvage for white spruce fuelwood. Harvest units are designated in those areas where productive white spruce trees existed pre-fire at economic concentrations, mostly found on low ridges within the north portion of the 2014 100 Mile Creek Fire scar. All fire-killed white spruce trees will be included for harvest. Any live trees within the sale boundaries will not be cut. Sale unit size is expected between 40-160 acres, in order to amortize access costs over an economic harvest volume.

Sale unit boundaries will be located near the fire perimeter and naturally occurring vegetative type changes within the burn. A 330-foot buffer, external to the fire perimeter, may be harvested to include fire damaged timber or to provide strategic management options to minimize pest or windthrow mortality.

Logging operations will follow all applicable Best Management Practices and residual trees will be protected from damage during harvest operations. Harvesting will be by the whole tree yarding system. Slash disposal at the landings will be by burning or by salvage for fuelwood use.

- a. Reforestation and site preparation: The reforestation requirement found in the Alaska Forest Resources and Practices Act (AFRPA) Regulations (11 AAC 95.375-.390) on harvested forest land is waived if “the stand is significantly composed of ...fire killed trees” (11 AAC 95.375).

Nonetheless, passive natural regeneration is expected for these forest stands, and winter-only access is expected to have a negligible effect on total stocking. Winter-only salvage harvest will allow the persistence of advance regeneration

due to thick snow cover and frozen soils. A mature stand of burned spruce or mixed spruce / hardwood typically reforests to aspen or birch as the primary species after fire. Birch and aspen typically recolonize burned areas within ten years, often at high densities due to vegetative reproduction. Further, the ground surface throughout the units was burned, resulting in thin organic layers that include favorable seedbeds for white spruce and birch. Unburned forest stands are within 0.1 mile of >50% of the proposed sale areas, to which they are expected to contribute as seed sources.

- b. Access design and construction: Access design, construction, and maintenance will comply with the Alaska Forest Resources and Practices (AFRPA) Regulations (11 AAC 95.285-.355). The planned access to the proposed sale will start from Spengler Road in the Big Delta area, cross the Delta River, then continue along 1.5 miles of the Whitestone Winter Road (0.6 mi of which are the winter ice crossing over the Delta River built and maintained by the Whitestone Community), then continue 6.6 miles of the Rainbow Lake winter road. A 5.5 mile long winter access road would extend the rest of the way to the sale area, and be constructed as part of a timber sale contract.

Contractors taking any equipment across the Whitestone Crossing of the Delta River with Gross Vehicle Weight in excess of 10,000 lbs will be required to obtain a Stream Crossing Permit from ADF&G. The proposed new access routes do not cross any streams but will cross seasonal drainages and skirt pond edges. The proposed road locations are generally on flat topography with low potential to erode during spring break-up and rainy weather. Winter spur roads will be constructed to reach individual sale units. All access roads will be maintained to the winter road standards set out in the AFRPA and the DOF Road Standards.

- c. Appraisal method: DOF will appraise the timber value in compliance with 11 AAC 71.092. Results from past auctions will provide a basis for the appraisal. DOF uses a transaction evidence appraisal system which will be used to determine base stumpage rates.

F. Resources and management

1. Timber

- a. Timber stand composition and structure: Inventoried unburned timber stands approximately 0.5 miles N of the proposed sale area include mixed white spruce/hardwood pole-sized stands on better drained ridges, with dwarf spruce and tussock in low-lying areas. Fire-killed trees observed standing in summer 2022 were almost exclusively white spruce 60-80' tall, with downed hardwood boles interspersed. These stands were on elevated terrain with good drainage, typically gently-sloped ridges. Advance regeneration discernable from aerial recon was mostly forbs and grasses. Fires typically leave a mosaic of burn intensities, which provide distinct regeneration environments for different tree species.

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- b. Stand silvics: Typical merchantable tree species are white spruce and birch, but birch wood degrades relatively quickly after mortality whereas spruce maintains its integrity for a period of time. In the Delta area, fire-killed stands have been salvaged productively for fuelwood 12+ years after disturbance (e.g., 2010 Gilles Creek Fire, 2013 Mississippi Fire).

Data and research on regeneration and growth characteristics of these species are compiled within the Resource Analysis of the Tanana Valley State Forest (TVSF) Management Plan. The harvest and reforestation systems available in Interior Alaska are also reviewed and listed in the Resource Analysis. The results of the public and agency discussions for harvest and reforestation are discussed in the TVSF Management Plan.

Passive natural regeneration is expected for these forest stands, and winter-only access is expected to have a negligible effect on total stocking. Winter-only salvage harvest will allow the persistence of advance regeneration due to thick snow cover and frozen soils. A mature stand of burned spruce or mixed spruce / hardwood typically reforests to aspen or birch as the primary species after fire. Birch and aspen typically recolonize burned areas within ten years, often at high densities due to vegetative reproduction. Further, the ground surface throughout the units was burned, resulting in thin organic layers that include favorable seedbeds for white spruce and birch. Unburned forest stands are within 0.1 mile of >50% of the proposed sale areas, to which they are expected to contribute as seed sources.

- c. Topography and Soils: The proposed sales 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 project area is between 1,000-1,250 foot elevation east of the Delta Creek drainage, with most harvest on the higher terrain. Slopes within the project vary from flat to 20%. Soils in this part of the Tanana Flats are generally silt loams on top of sand or gravel, with permafrost found in the flatter areas.

NC-1743-D is predominantly on two low east-west trending ridges; the north unit is 100+ feet south of a chain of small ponds. Soils are a combination of Nenana silt loam (12-45% slopes), which is a deep silt loam underlain by sand, and Tanana silt loam (0-3% slopes), which typically has up to 23" of well-drained soil underlain by permafrost.

NC-1698-D is on the apparently elevated north rim of a flat swampy area that may have formerly been a lake. Soils are a combination of Nenana silt loam (0-3% slopes), which is a deep silt loam underlain by sand, Tanana silt loam (0-3% slopes), which typically has up to 23" of well-drained soil underlain by permafrost, and Goldstream peat (0-3% slopes), which is a peat layer underlain by silt loam with a frozen layer found 12-35 inches below the surface.

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NC-1739-D includes apparently elevated areas surrounding soils are a combination of Tanana silt loam (0-3% slopes), which typically has up to 23” of well-drained soil underlain by permafrost, Goodpaster variant-Goldstream complex (0-3% slopes), which is a silt loam underlain by permafrost typically below 21” in depth. Two small patches of cryorthents, recently formed soil without defined horizons (e.g., from glacial wind deposits), are found within the approximate sale boundary as well.

NC-1851-D is predominantly located on a low-relief ridge above a chain of small ponds (500+ feet distant). Soils are a combination of Nenana silt loam (7-42% slopes), which is a deep silt loam underlain by sand, and Tanana silt loam (0-3% slopes), which typically has up to 23” of well-drained soil underlain by permafrost.

2. Agriculture. The proposed sales are not anticipated to have any impact on current or future agricultural activity in the area, and any effects of any timber sale operations for agricultural uses will be minimal.
3. Wildlife habitat and harvest. Wildlife typical of the interior are found on this site. Signs of moose were observed. There are no known raptor nests within the proposed sale area. No critical wildlife habitat has been identified for this area (ETAP).

Treatments proposed for this stand are expected to have a neutral effect on habitat, creating a biotic environment somewhat distinct from burned but unsalvaged areas (e.g., fewer snags and large down woody debris, diminished prey-species cover). Typical post-fire habitat benefits of vigorous forage growth and open areas are expected to be present.

4. Fish Habitat, water resources, and water quality. The Delta River upstream from the confluence with the Tanana is the only water crossing involved. The Whitestone Community annually builds and maintains a winter crossing at this location after freeze-up. The Alaska Department of Fish & Game (ADF&G) issues a permit for General Public use at this location as well (Gross Vehicle Weight < 10,000 lbs; permit # FH16-III-0232-GP Amendment 1). Any logging contractor bringing motorized equipment in excess of 10,000 lbs must obtain their own permit from ADF&G and follow its stipulations.

Delta Creek is the nearest navigable streamcourse, and is 3+ miles away from the proposed sales. The proposed sales 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). There are no catalogued anadromous waters in the project area. Within the proposed sale area, a number of small lakes and ponds from 63 to < 1 acres in size are present, principally around the north rim of the 100 Mile Fire burn scar. Rainbow Lake, 5 miles east of the proposed sale area, is stocked by ADF&G.

DOF will ensure Best Management Practices are being adhered to by requiring a complete logging plan prior to the start of any harvesting, conducting on-site inspections during logging operations and a final inspection prior to terminating the timber sale. Wintertime harvest activity, particularly with frozen soils and deep snow cover typical at mid-winter entry, is expected to mitigate potential erosion, sedimentation, and thermokarsting concerns.

5. Recreation, tourism, and scenic resources. General recreational use of the proposed timber salvage areas is low or non-existent during the summer months due to the seasonality of the access. Winter recreational use of the area is likely quite low as well, as access to the project area is distant from known existing trails and winter roads. Local residents use the winter road system to access cabins and home sites.

Multiple trap lines and recreational trails are within the general vicinity, generally north and east of the proposed sale area. If any trails are encountered during road construction, contractors will provide for trail crossings as well as post warning signs along the road.

The region's scenery includes the lakes and streams that draw recreational users and views south to the Alaska Range. Typical interior Alaska views of forested vistas and mountainous horizons typify this area. Visual impacts from the proposed harvests are not anticipated to be within view of the general public. Sale area layouts will mimic the irregular borders associated with natural disturbances in areas where scenic values are of concern.

There is no known tourism in the proposed salvage 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 harvest areas. No impacts to cultural resources are anticipated due to the fact that all harvests will occur during the winter harvest season. Care will be taken to locate road construction/ development to areas with low archeological potential, specifically low- to mid-slope orientation. If additional archaeological sites are identified, proposed harvest areas and road locations will be appropriately adjusted to avoid conflicts. If any historic or archaeological sites are encountered during road construction or harvest activities, DOF will immediately inform SHPO and take action to protect the findings.
7. Subsurface Resources. Though mineral entry and leasing are not restricted by ETAP in Unit D-21, mineral potential in this unit is anticipated to be marginal. No adverse effects on subsurface activities are anticipated.

G. Costs and benefits

Salvage of the proposed timber volume may provide a short-term benefit to the local economy due to the availability of low-cost fuel for home heating and jobs in timber harvesting. It will have a positive impact on local employment by generating numerous

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man-hours of work associated with the harvest and transportation of wood products from this sale. Additionally, the public may benefit from access to additional personal use fuelwood areas. High fuelwood prices will also make merchandising the tops worthwhile. Home heating continues to be expensive in 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, physically posted in Area offices and both physical and electronic notices were mailed to previous timber sale bidders as well as any property owners or business interests known to DOF in the proposed sale area. Notice was also posted on the DOF public webpage and DOF social media outlets.

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VII. PUBLIC COMMENT AND RESPONSE

Comment Period for preliminary BIF November 10 – December 9, 2022

Commenter	Re-ceived	Comment	Action
ADF&G, Division of Habitat Todd 'Nik' Nichols	12/8/2 2 email	Where practical, retain standing cavity trees or snags if safe for operations and merchantable value is obviously low.	DOF agrees to include Snag Retention as a silvicultural practice within the FLUP to minimize impacts to habitat, subject to the criteria of merchantability and safety.
ADNR, Division of Mining, Land, & Water Jaclyn Cheek	12/8/2 2 email	Ensure public access along RS-2477 routes are maintained, no obstruction to public access on existing trails or easements.	DOF Timber Sale Contract, Exhibit C, Section 19 obliges operators to keep trails clear. DOF staff will inspect regularly for compliance.
USFWS, Northern Alaska Field Office Robert Henszey	12/2/2 2 email	Migratory birds' breeding cycles are sensitive to land disturbance like timber harvest and road building; in sensitive areas defer harvest operations outside of the May 1 – July 15 breeding season	Season of harvest is winter time (generally late November to early April). No conflicts anticipated.
		Bald and Golden Eagles are common throughout the Tanana Valley, and are protected by the Federal Bald and Golden Eagle Protection Act. Harvest operations should be 660' distant from known nesting sites during breeding season (Mar 1 – Aug 31), and 330' at other times.	The confirmed location of any protected species' nesting area will immediately necessitate a non-harvested buffer to achieve statutory protections. DOF Timber Sale Contract Section 8 'Compliance with Laws...' affirms Contractor's obligations to comply with any and all applicable laws.
		When establishing erosion control, wildlife may be harmed by synthetic materials. Use plastic-free products to achieve erosion control objectives.	No synthetic erosion control material is anticipated as part of these sales. Should DOF require erosion control material, it will first seek non-synthetic sources.
		Include measures for maintaining floodplain integrity up and down stream of all floodplain crossings. Floodplain connectivity can be enhanced at crossings by having the least impedance to flow.	All crossings are accomplished either on existing all-season roads or winter roads. Road construction and maintenance will follow Alaska Forest Practices Act regulations and DOF BMP standards. DOF staff will inspect regularly for compliance.
		Implement BMPs to minimize the introduction and transport of invasive species in and out of a project area.	DOF staff will familiarize themselves with the referenced invasive species and BMPs. DOF staff will monitor and observe for invasive species during and after harvest operations.

VIII. DISCUSSION, FINAL FINDING, AND DECISION

After due consideration of all pertinent information and alternatives, DOF has reached the following Decision: To offer for sale approximately 424 acres of spruce fire salvage to provide fuelwood as proposed in Alternative 1 and described in the PBIF. Public notice has been accomplished in accordance with AS 38.05.945. The case file has been found to be complete and the requirements of all applicable statutes have been satisfied. The DOF finds that this 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); and AS 41.17.010-.950 and 11 AAC 95 (Forest Resources and Practices Statutes and Regulations).

IX. SIGNATURE

Kevin Meany

Date

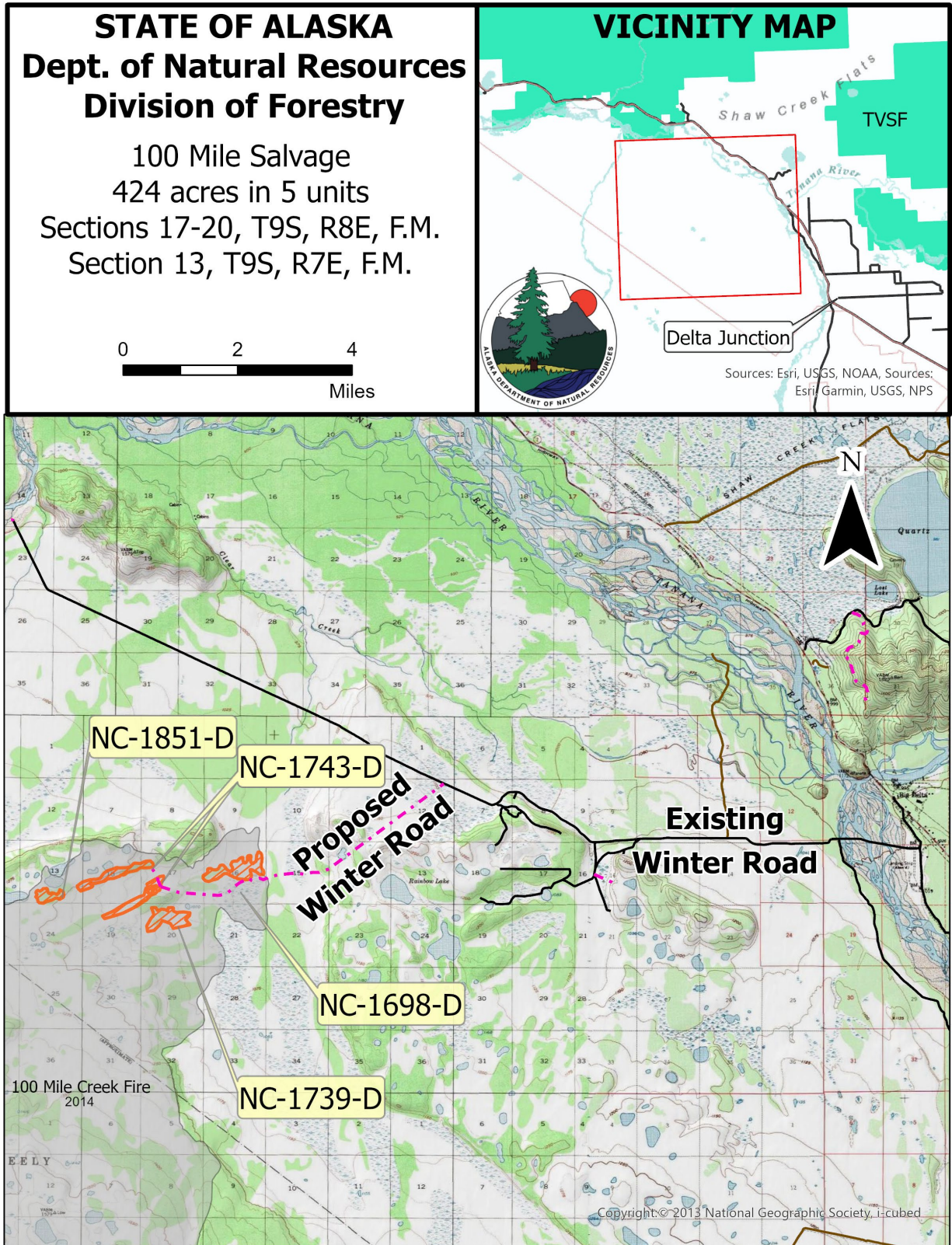
Fairbanks-Delta Area Forester
Alaska Division of Forestry & Fire Protection

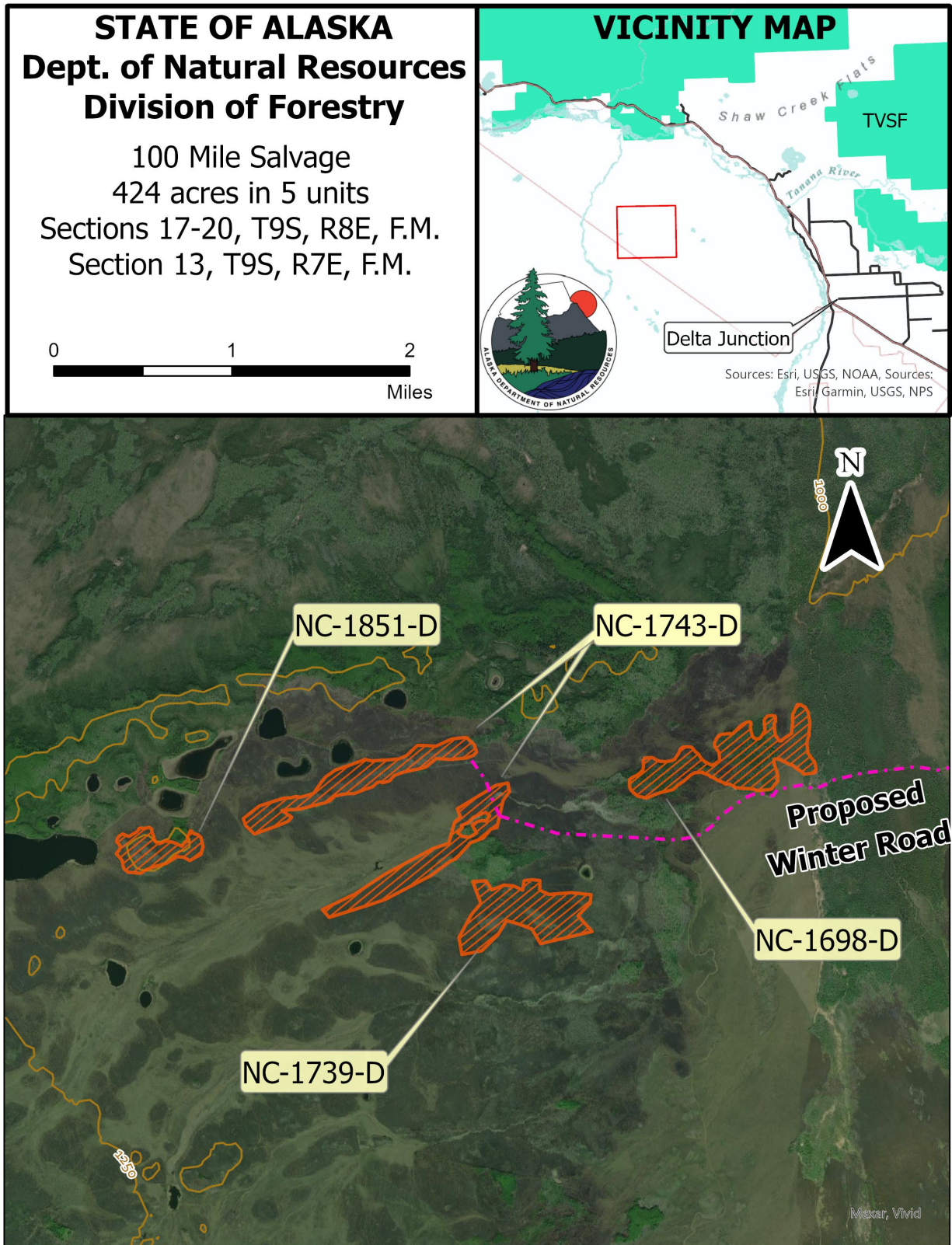
X. APPEALS

An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may appeal the decision to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska State Courts establish its own rules for timely appealing final administrative orders and decisions of the department.

Appeals may be mailed or hand-delivered to the DNR Commissioner’s Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(6), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b).]

XI. APPENDIX A: MAPS





XII. APPENDIX B: APPEAL REGULATIONS

11 AAC 02 Regulations

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.

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.

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.

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, facsimile transmission, 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;
 - (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; and
 - (14) be accompanied by the applicable fee set out in 11 AAC 05.160.
- (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

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decision, an appellant may not submit additional written material after the deadline for filing the appeal, unless the appeal meets the requirements 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 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.

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.

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(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).

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.

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

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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.

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.

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.