

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



FAIRBANKS-DELTA AREA FORESTRY

**FINAL BEST INTEREST FINDING AND
DECISION FOR**

**Jenny M Hill Spruce Project Area
NC-1986-F, NC-1993-F, NC-2050-F**

November 2024

Abbreviations

ADEC	Alaska Department of Environmental Conservation
ADF&G	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resources
BIF	Best interest finding
CCF	100 cubic feet
DMLW	Division of Mining, Land and Water
DOF	Division of Forestry & Fire Protection
FLUP	Forest Land Use Plan
FRPA	Alaska Forest Resources and Practices Act
FYSTS	Five-Year Schedule of Timber Sales
MBF	Thousand board feet
OHA	Office of History and Archeology
ROW	Right-of-way
TVSF	Tanana Valley State Forest

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I. PROPOSED ACTION

DOF is proposing to offer for sale over the next five years approximately 60 acres of spruce sawlog from state lands in the Pheasant Farm Forest Road area. The volume to be offered over the next five years totals approximately 585 MBF (1,500 CCF). DOF would sell the timber as a combination of competitive bid and negotiated timber sales for commercial use. For these timber sales, the PBIF and Draft FLUP were issued for review at the same time. The land covered by this BIF appeared in the Fairbanks-Delta 2024 FYSTS.

The management objectives for the proposed timber sales are:

- Provide raw material for the forest industry to produce timber products that provide benefits to the state and local economy through employment opportunities.
- Harvest the commercial sawtimber and fuelwood before a significant decrease in vigor occurs and return the site to a young, productive mixed 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 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-1986-F, NC-1993-F and NC-2050-F.

IV. SCOPE OF DECISION

This final best interest finding (BIF) completes step three of a six-step process to design, sell, and administer timber sales. This BIF covers the sale of approximately 60 acres of spruce sawlog on state land within the perimeter of the 200-acre Jenny M Hill Spruce Project Area. The following list summarizes the overall process:

Step 1: Regional planning. The Department of Natural Resources (DNR) develops area plans and state forest management plans to designate appropriate uses for state land, classify the land accordingly, and establish management guidelines for multiple use. These plans determine where timber sales are an allowed use, and what other uses must be considered when designing and implementing sales. Subsequent land use decisions must be consistent with the area plans. The area in this BIF is covered by the Tanana Valley State Forest Management Plan, and the BIF is consistent with this plan.

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 Schedules preceding the sale. The land covered by this BIF appeared in the 2024 Fairbanks-Delta Area FYSTS.

Step 3: Best Interest Finding. DOF must adopt a final BIF before selling timber. 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 60 acres of spruce sawlog from state lands within the Jenny M Hill area in a combination of negotiated and competitive bid timber sales for commercial use on October 21st, 2024. 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 Jenny M Hill Spruce Project Area. 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 draft FLUP concurrently with the PBIF and will adopt the final FLUP following review of comments. FLUPs specify the site, size, timing, and harvest methods for harvest unit within the sale area. FLUPs also address site-specific requirements for access construction and maintenance, reforestation, and multiple use management. FLUPs are based on additional field work, agency and community consultation, and site-specific analyses by the DOF, and are subject to public and agency review.

Step 5: Timber sales and contracts. Following adoption of the final BIF, 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 will administer the timber sales and conduct field inspections to ensure compliance with the final BIF, FLUP, timber sale contract, and applicable laws,

including the Alaska Forest Resources and Practices Act and regulations (AS 41.17 and 11 AAC 95), and forest management statutes and regulations in AS 38.05 and 11 AAC 71.

V. PROJECT LOCATION, LAND STATUS, AND DESCRIPTION

A. Location

The proposed area is located approximately 23 miles east of the Fairbanks Forestry office in the Pheasant Farm Forest Road area south of Chena Hot Springs Road milepost 20. The sale areas are shown on the attached map and is within United States Geological Survey 1:63,360 Quadrangle map titled Fairbanks D-1.

NC-1986-F is within Section 1, Township 1 South, Range 3 East, F.M.

NC-1993-F is within Sections 1 & 12, Township 1 South, Range 3 East, F.M.

NC-2050-F is within Section 12, Township 1 South, Range 3 East, F.M.

B. Title status

The acquisition for the land upon with the sales are proposed is based on MH 29, and patented to the State under PA 50-75-0102. The land estate is Tentatively Approved; thus, the State has management authority. There are no known title restrictions on the area.

C. Land use planning, classification, and management intent

The proposed area is within the Tanana Valley State Forest (TVSF) in Management Unit 6. The Unit will be managed for dispersed and developed recreation and commercial and personal use timber production. There are no specific restrictions on timber sales within the TVSF Management Plan.

The sale areas are open with respect to mining.

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

This area falls under the Fairbanks-North Star Borough’s Regional Comprehensive Plan (2005), which supports forest development activities while aiming to minimize land use conflicts.

D. Current access and land use:

Access to the proposed sale area is planned via an existing all-season road, Pheasant Farm Road, which has been used to access previous timber sales. Pheasant Farm Road will be maintained according to the standards outlined in the DOF Road Standards document. Upon

completion of the sale, any roads utilized by logging traffic will be left in a condition equal to or better than they were prior to the sale.

Current land uses include farming, hunting/trapping, dog mushing, and OHV use.

E. Background and description of proposal

1. Background: According to the Tanana Valley State Forest Management Plan, Unit 6 shall be “managed for dispersed and developed recreation and commercial and personal-use timber production”. The Division of Forestry is offering these sales with the intent to maintain a productive working forest while continuing to provide opportunities for dispersed and developed recreation.
2. Timber volume and sustained yield: The proposed project area has an estimated 585 MBF (1,500 CCF) of spruce sawlog on approximately 60 acres to be offered over the next 5 years. Final harvest unit boundaries and timber volume estimates will be determined upon completion of sale preparation activities. The Fairbanks Area Annual Allowable Cut (AAC) is calculated at approximately 4,606 acres of harvest annually. The volumes proposed in these harvests alone, and in combination with timber volumes from other proposed timber sales, will be within the Annual Allowable Cut and comply with sustained yield requirements.
3. Harvest unit design: The 60 acres to be offered will be split between three individual sales, each with one planned cutting unit. Cutting units buffer recreational trails that pass through the area by 50 feet. The sale areas will be harvested by the clearcut silvicultural system. Patches of nonmerchantable advanced regeneration and significant snags important for wildlife habitat will be preserved as much as possible. Residual trees will be protected from damage during harvest operations although over-mature birch may be used as bumper trees to protect patches of advanced spruce regeneration. 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 sale area will be reforested in compliance with the Forest Resources and Practices regulations (11 AAC 95.375-.390) Natural regeneration will be utilized initially for regeneration. Removing the canopy in conjunction with patch scarification in these harvest areas will result in improved mineral soil microsites and high light conditions favorable for the establishment of a new cohort of birch and white spruce. Residual and adjacent birch and spruce will provide the seed source. A regeneration survey will be conducted after any harvest. Inadequately stocked areas may need further management actions, such as planting spruce, to achieve proper stocking levels.
 - b. Access design and construction: Access design, construction, and maintenance will comply with the Forest Resources and Practices regulations (11 AAC 95.285-.355). The access to the project area has been established previously, and will include reconditioning of one section of road and construction of 0.3 miles of spur

road. Access begins at mile post 20 on Chena Hot Springs Road, where Pheasant Farm Road runs south for approximately 3 miles toward the Chena River. Pheasant Farm Road continues past a series of private properties before entering the Tanana Valley State Forest. Pheasant Farm Road then crosses Jenny M Creek on a girder floor beam bridge, running an additional 0.3 miles northwest before heading north another mile as it gains the toe slope of Jenny M Hill. The existing road from this point has overgrown and narrowed, and will require reconditioning for an additional 1.7 miles to reach the project area. To reach the westernmost sale, NC-2050-F, 0.3 miles of new spur construction may be necessary.

All roads are considered active, and will remain active following the closure of these sales.

Increased logging traffic may be observed by residents. Road wear will be addressed through regular road maintenance conducted by logging operations, ensuring the road remains in comparable or improved condition upon closure of these sales.

- 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: These are mature white spruce-dominant stands with a birch component growing on a northern aspect on an upland site. A history of firewood harvest in the area is evident, as decomposing, moss-covered stumps proliferate in all sale areas, and stocking is dominated by high-volume stems. Due to previous vegetative release, some areas contain a dense alder and grass component, which would likely impede regeneration efforts without post-harvest scarification. The surrounding understory is characterized by thin moss layers, horsetail, and rose. Instances of butt rot in this mature cohort of spruce was evident in tree core data, which is consistent with many other northern-aspect spruce sawlog sites in the Fairbanks area.
- b. Stand silvics: The common merchantable tree species in the Tanana Valley include white spruce, birch, aspen, and balsam poplar. Data and research on the regeneration and growth characteristics of these species are compiled in the Resource Analysis of the Tanana Valley State Forest (TVSF) Management Plan. This analysis also reviews and lists the harvest and reforestation systems available in Interior Alaska. The outcomes of public and agency discussions on harvest and reforestation are included in the TVSF Management Plan. Silvicultural harvest systems that promote even-aged (natural) management are generally preferred.

These systems mimic the ecological effects of wildfire and other disturbances, leading to the greatest increase in site productivity. Even-aged management is typically achieved through clear-cuts with reserves, patch cuts, and heavy partial cuts (such as seed tree or shelterwood systems), which open the site to maximum solar exposure. This approach results in the highest production of young hardwoods important for wildlife and spruce understory valuable for future timber. These techniques create young, vigorously growing stands next to older, undisturbed stands, optimizing natural seeding and enhancing the edge effect.

- c. Topography and Soils: The proposed sale will be designed and managed to prevent significant impairment of the land and water with respect to renewable resources (AS 41.17.060(c)(5)). The site is positioned on a northern aspect in the upland at approximately 800 feet above sea level. Soils in the area are classified as Gilmore silt loam and Ester-Gilmore complex. Gilmore silt loam is well-drained, shallow soil with horizons dominated by silty loess lying upon schist bedrock. This soil type exists on crests and hillslopes and is mostly forested. Ester-Gilmore complex is well-drained, shallow soil with horizons dominated by silty loess existing on hills, summits, and backslopes.
2. Agriculture. No known or anticipated future agricultural activity is expected in the proposed area.
3. Wildlife habitat and harvest. Wildlife typical of the Interior are found here, with signs of moose, black bear, and grouse observed during field reconnaissance. Large portions of the proposed area offer excellent habitat for moose, black bear, and furbearing animals. There are no known raptor nests within the proposed area. If an eagle nest tree is discovered in the sale area, it will be marked on the ground and a 330-foot no-harvest radius will be established to protect the area.

The proposed treatments for these stands are expected to enhance habitat conditions for ruffed grouse, moose, voles, hares, and, ultimately, lynx, marten, and fox. The Alaska Department of Fish and Game, Division of Wildlife Conservation (ADFG), have historically recommended managing for as much diversity as possible when prescribing harvest unit size, shape, and position to mimic the results of wildfire or other stand replacement phases such as insect outbreaks or flood events. To achieve these objectives, snags will be retained to provide late-successional wildlife habitat for hole-nesting birds, woodpeckers, small mammals, and other species requiring perching habitat. The units will be laid out with uneven edges along and between timber types where possible, creating a varied edge effect beneficial to many wildlife species.

4. Fish Habitat, water resources, and water quality. The proposed sale will be designed and managed to protect fish habitat and water quality in compliance with the Forest Resources and Practices Act and regulations (AS 41.17 and 11 AAC 95). Access to the proposed area crosses Jenny M Creek (AWC Code 334-40-11000-2490-3301-4035-5015), which flows into Mullen Slough (AWC Code 334-40-11000-2490-3301-

- 4035), and ultimately into the Chena River (AWC Code: 334-40-11000-2490-3301), all of which are catalogued as anadromous (salmon-bearing) waters. Jenny M Creek, Mullen Slough and the Chena River are classified as Type III-A streams (non-glacial with resident fish, > 3 ft wide) under the Alaska Forest Resources and Practices Act (FRPA). FRPA allows for sustainable timber harvesting while ensuring the protection of its high-value resident fish habitats. The Chena River system provides critical spawning and rearing habitat for salmon and supports the most heavily used sport fishery in the Tanana Basin. The closest harvest associated with this BIF will occur over a half mile away, draining away from these salmon-bearing waters.
5. Recreation, tourism, and scenic resources. The proposed area lies within the Chena River corridor, an area that sees extensive use by a myriad of user groups in all seasons of the year. Sport fishing, guided fishing tours, paddling, rafting, hiking, hunting, trapping, foraging, OHV use and personal use firewood harvesting are common along the Chena River and the surrounding area, with additional winter uses such as snowmachining, dog mushing and skiing, with multiple guiding outfits contributing to the local tourism economy. The Chena River corridor provides for multiple use with a high scenic value that contributes to its popularity as a recreational hub in the Interior. Trails within the proposed area see a relatively high volume of use – trails were buffered 50 feet to preserve and maintain their structure and quality. Harvest unit NC-2050-F will require spur road construction, which shall cross perpendicular to an existing trail. The contract will specify mitigations to accommodate the existing uses in the 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. 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. All of TVSF Unit 6 is open to mineral entry and is available for leasing. Mineral potential in this Unit has been rated moderate to high. No active mining claims are established within the sale area, but claims do exist nearby to the northwest and to the northeast. No deleterious effects on subsurface activities are anticipated.

G. Costs and benefits

Local commercial logging operators and their customers will benefit from the inflow of raw timber into the market. In addition to generating royalties to the State's general fund, the proposed sales will create economic benefits for the communities of Fairbanks and Nenana and other locations in Alaska. The local business community will receive direct economic benefit from providing support services for the operators through sales of fuel, food, housing,

medical and miscellaneous supplies. Local residents may receive an indirect benefit through any local taxes paid by the operator and employees during the timber harvest operations.

These sales are also expected to benefit the local economy by providing jobs. These proposed sales will have a positive impact on local employment by generating numerous man-hours of work associated with the harvest and transportation of wood products from this sale.

Additionally, the public may benefit from additional access to personal use fuelwood areas, as home heating costs remain high in Interior Alaska.

Minimal negative effects are expected on fish and wildlife habitat or water quality due to the mid to upper slope landscape position of these sales and retention of adjacent seed source which may provide additional travel corridors for wildlife.

VI. PUBLIC NOTICE

The preliminary best interest finding and decision were publicly noticed in compliance with AS 38.05.945. Notice was posted on the Alaska Online Public Notice System, and both physical and electronic notices were mailed to previous timber sale bidders as well as any property owners or business interests known to the Division in the proposed sale area. Notice was also posted on the Division of Forestry public webpage, <https://forestry.alaska.gov/>, as well as on the Division of Forestry Facebook Page, <https://www.facebook.com/AK.Forestry/>.

VII. PUBLIC COMMENT AND RESPONSE

DOF received the following comments from the public and government agencies:

Commenter	Comment	Response
Alaska Dept. of Fish & Game	No issue of concern.	Noted.
Division of Mining, Land, & Water, Alaska Dept. of Natural Resources	Harvests should be conducted to minimize impacts to winter trail users by avoiding plowing trails to dirt and leaving large berms at intersections. Trail access is to be maintained.	Noted.
Office of History and Archeology	Recommend an archeological survey where all-season road construction or ground scarification is planned.	DOF contracts will comply with the Alaska Historic Preservation Act, including prohibitions on the removal or destruction of cultural resources. If, during the course of operations, any physical remains of historic, archaeological, or paleontological nature are discovered, work in that immediate vicinity must cease and the State must be notified.

VIII. DISCUSSION AND FINAL FINDING AND DECISION

After due consideration of all pertinent information and alternatives, the DNR has reached the following decision: To offer for sale approximately 60 acres of mature white spruce sawlog as proposed in Alternative One and described in this BIF. It also meets the silvicultural objective of improving forest vigor, providing for a value-added end product and creating additional jobs in Alaska due to the combination logging and trucking. This alternative complies with the management objectives of the TVSF Management Plan for Unit 6. 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 preliminary 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 Breitenbach
Fairbanks-Delta Forester
Alaska Division of Forestry & Fire Protection

11/22/24

Date

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).]

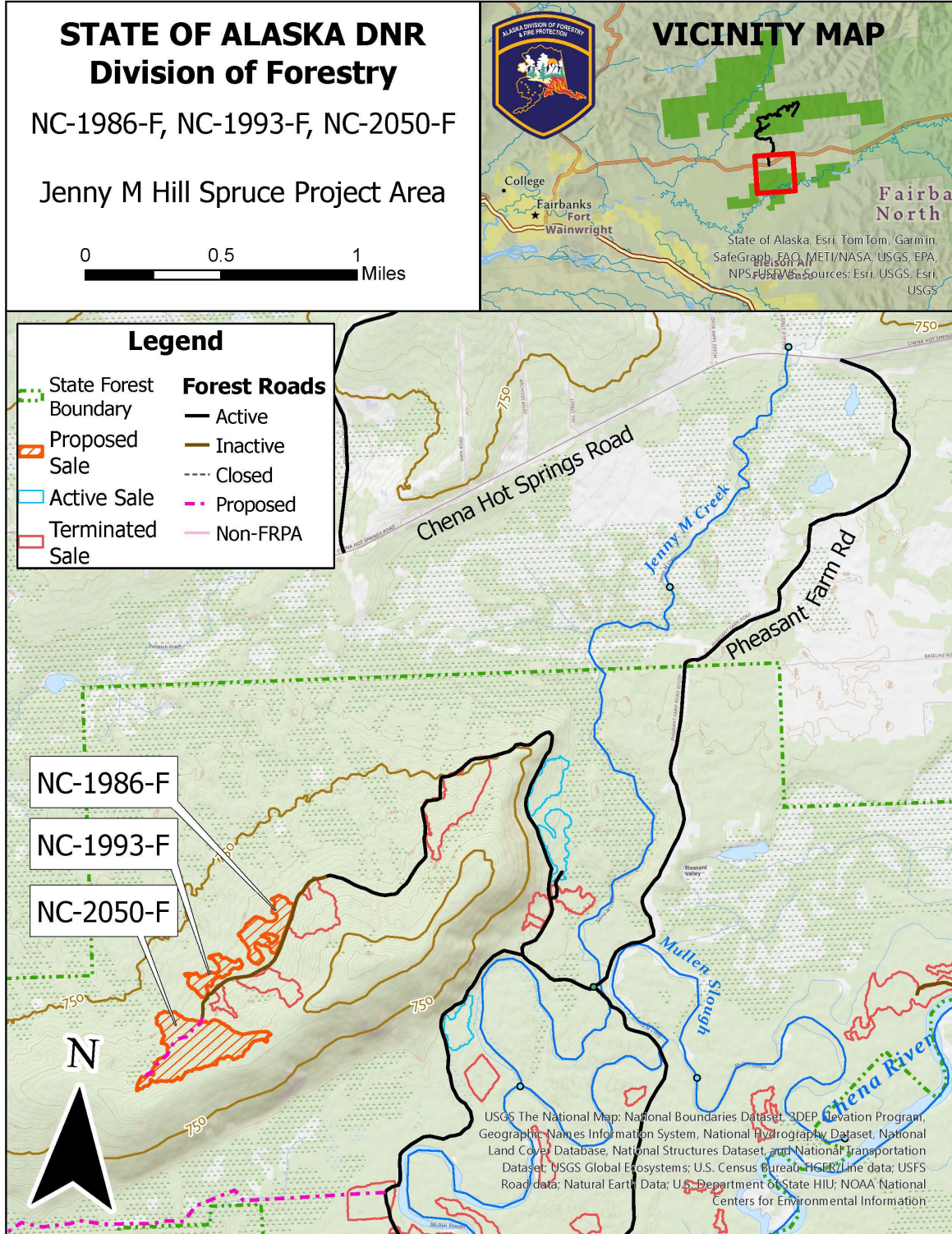
If no appeal is filed by that date, this decision goes into effect as a final order and decision on December 13th, 2024.

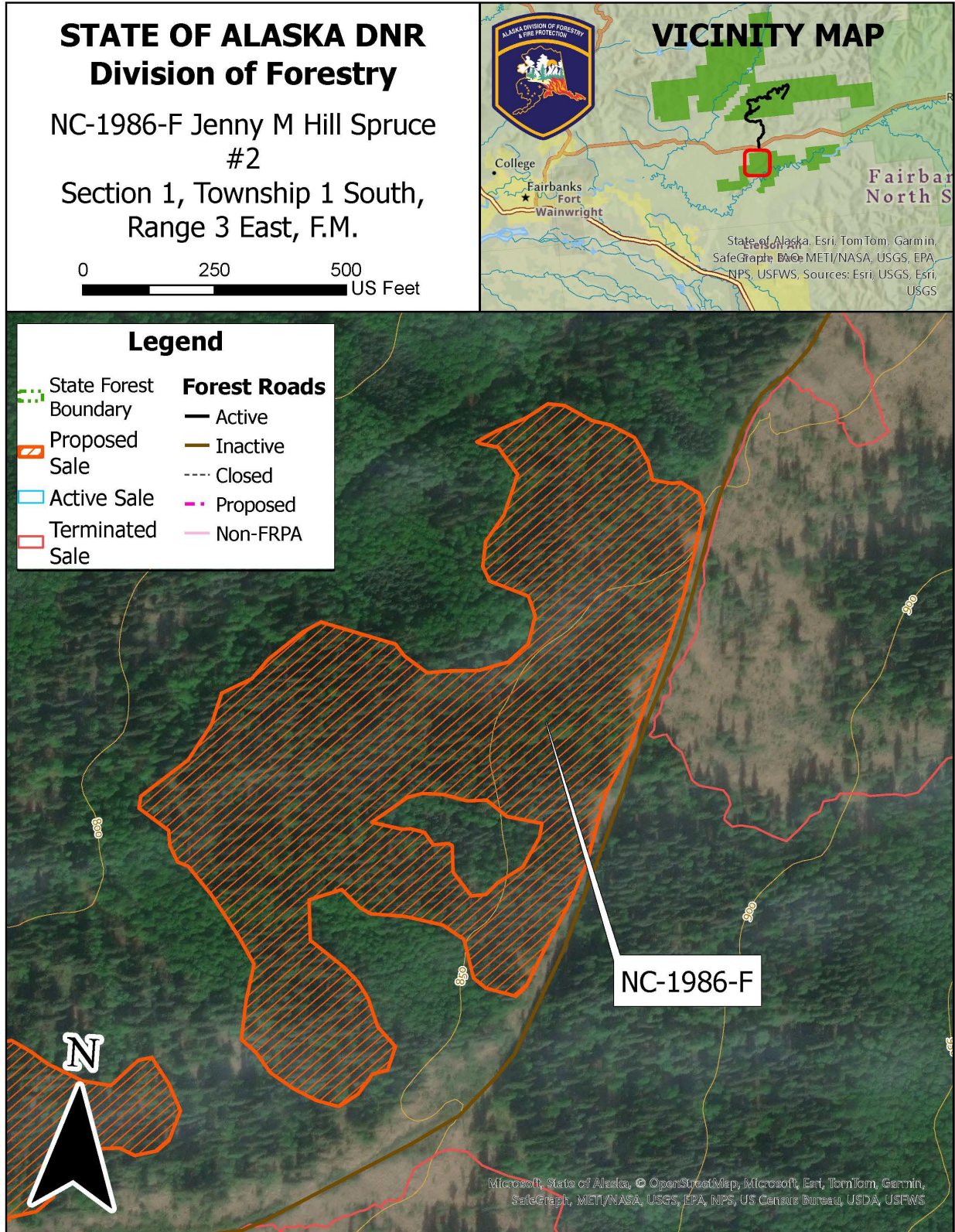
A copy of 11 AAC 02 is enclosed and is also available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.

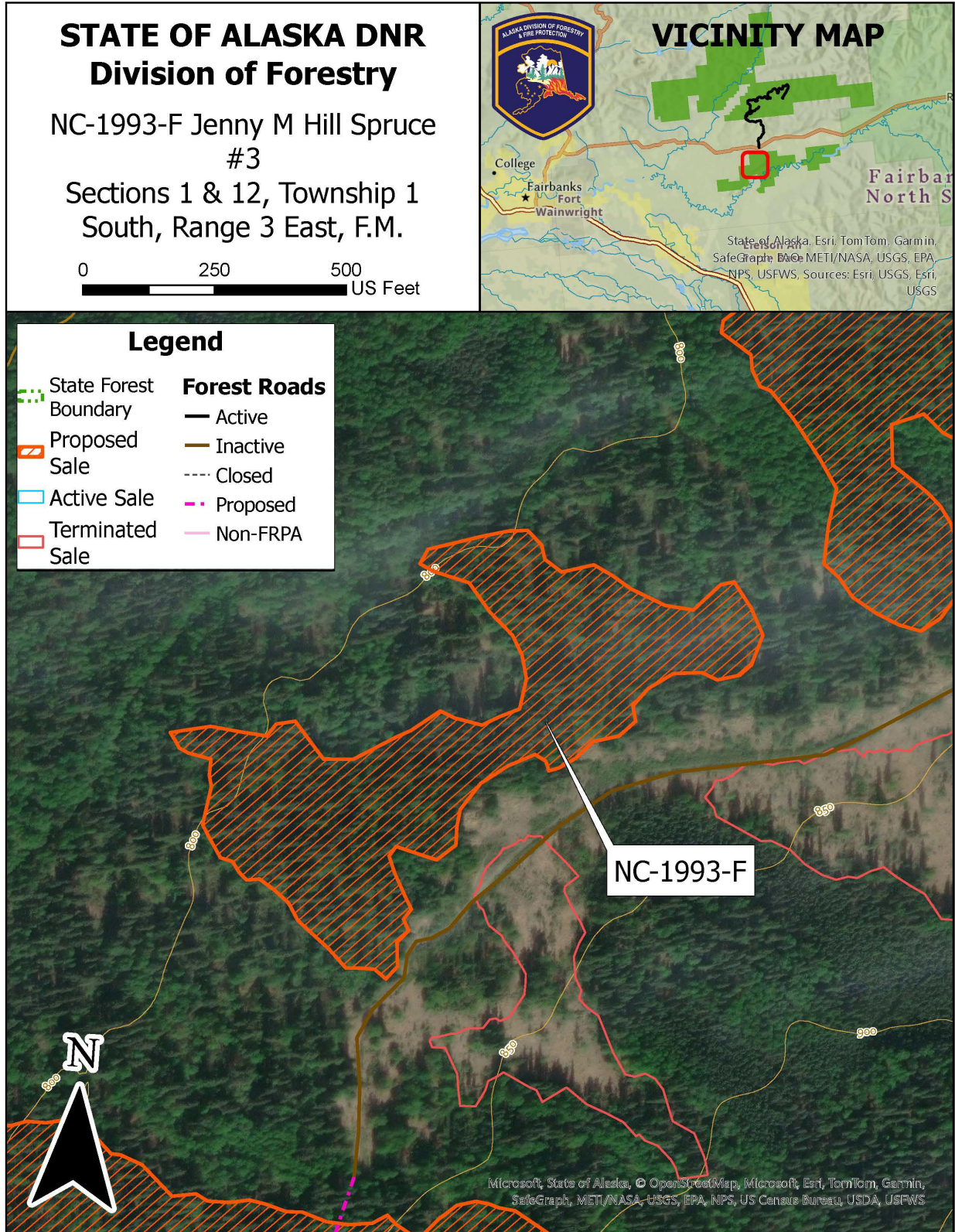
If you have any questions, please contact Kevin Breitenbach, Fairbanks-Delta Area Forester, kevin.breitenbach@alaska.gov, 907-451-2614, 3700 Airport Way, Fairbanks AK 99709.

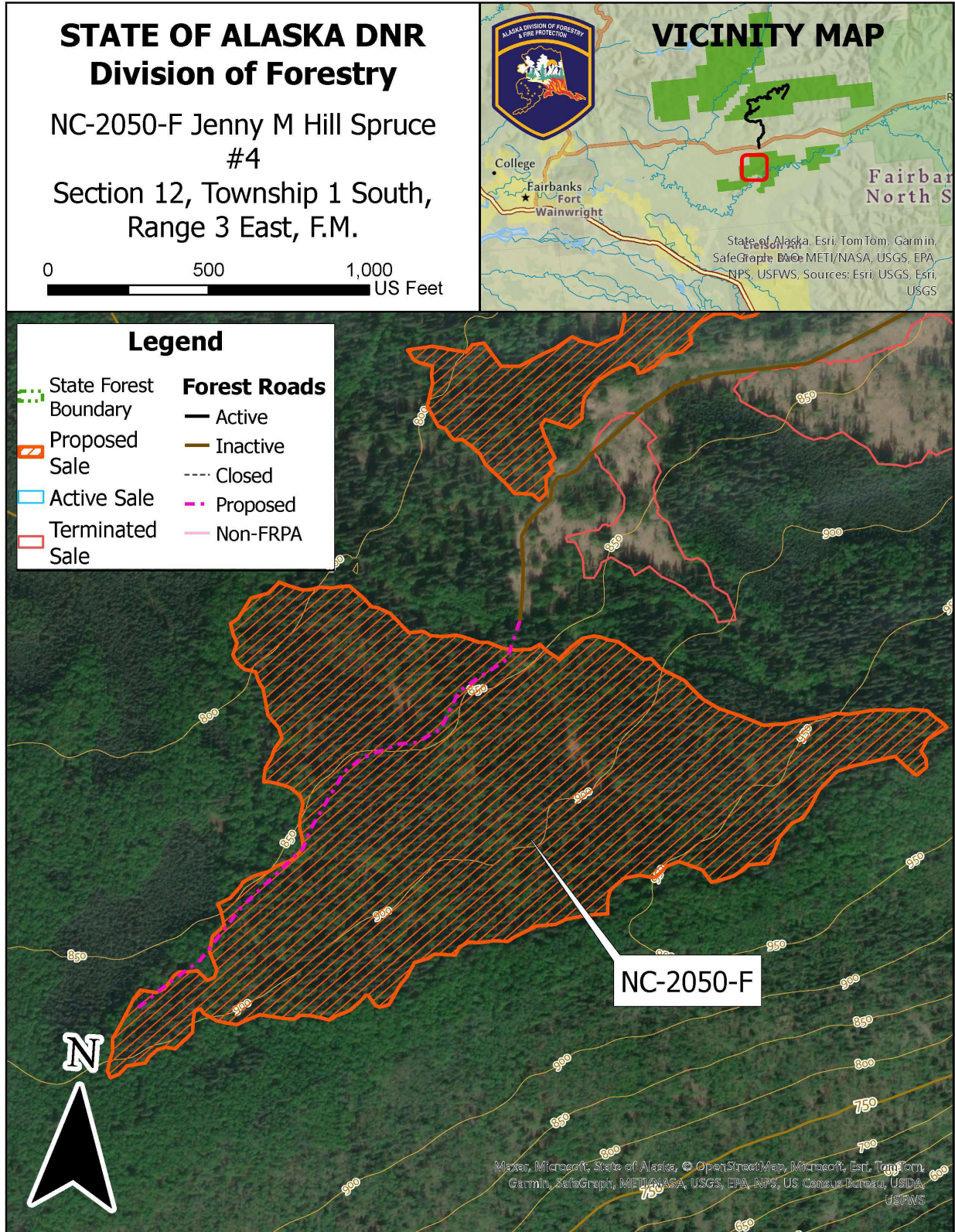
XI. APPENDICES

APPENDIX A: MAPS









APPENDIX B. 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 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

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.

(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 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.