

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



**FAIRBANKS-DELTA AREA FORESTRY**

**FINAL BEST INTEREST FINDING AND  
DECISION FOR**

**Nenana Ridge Mixed Timber Sales  
NC-1583-F, NC-1982-F, NC-1844-F**

**SEPTEMBER 2024**

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**Abbreviations**

AAC	Alaska Administrative Code
ADEC	Alaska Department of Environmental Conservation
ADF&G	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resources
AS	Alaska Statute
BIF	Best interest finding
CCF	100 cubic feet (timber volume)
DBH	Diameter at breast height (4.5 feet above ground)
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 approximately 140 acres of mature birch forest and mixed birch and spruce forest from state lands in the Nenana Ridge Forest Road area. The volume to be offered totals approximately 2,256 Cords (2,031 CCF) of birch fuelwood and 314 MBF (807 CCF) of spruce sawlog. DOF would sell the timber as three competitive bid timber sales for commercial use. The land covered by this PBIF appeared in the 2024 Fairbanks-Delta Five Year Schedule of Timber Sales (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 Area Office filed as Nenana Ridge Mixed Timber Sales, including NC-1583-F, NC-1982-F, NC-1844-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 140 acres of mature birch forest and mixed birch and spruce forest from state land within the Nenana Ridge Forest Road area depicted in the attached maps (see Appendix A). 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

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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 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 on 7/19/24 covering the decision to sell approximately 140 acres of mature birch forest and mixed birch and spruce forest from state land within the Nenana Ridge Forest Road area in a combination of competitive and negotiated sales for commercial use. DOF considered all written comments received during the 36-day review period. Responses to the comments are listed in Appendix A.

This document is the final BIF for Nenana Ridge Mixed 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 will prepare FLUP(s) for the harvest area within the overall sale area covered by this BIF. 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.

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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 sales are located approximately 29 miles southwest of the Fairbanks Area Forestry office in the Nenana Ridge Forest Road/Upper Grouse Forest Road area south of the Parks Highway Mile 328. The proposed sales share a north-facing slope above Little Goldstream Creek and are accessed via the same forest road system. NC-1583-F is north of the Nenana Ridge Forest Road at mile 6, and NC-1982-F is north of the Upper Grouse Forest Road at mile 1.5. NC-1844-F is north of the Nenana Ridge Forest Road at mile 7.

NC-1583-F is within Section 8, Township 3 South, Range 5 West, Fairbanks Meridian. NC-1982-F is within Section 15, Township 3 South, Range 6 West, Fairbanks Meridian. NC-1844-F is within Sections 7 and 18, Township 3 South, Range 5 West, Fairbanks Meridian. The sale areas are shown on the attached map and are within the United States Geological Survey 1:63,360 Quadrangle map titled Fairbanks C-4.

### **B. Title status**

The proposed sale areas are owned and managed by the State of Alaska Department of Natural Resources. The acquisition for the land upon which NC-1583-F and most of the area within NC-1844-F is proposed is based on General Selection 39, the title transferred by Patent 50-85-0137. The acquisition for the land upon which the remaining area within NC-1844-F is proposed is based on General Selection 21, the title transferred by Patent 1220532. The acquisition for the land upon which NC-1982-F is proposed is based on General Selection 28, the title transferred by Patent 50-86-0071. There are no known title restrictions in these areas.

### **C. Land use planning, classification, and management intent**

The proposed area is legislatively designated as part of Subunit 5A of the Tanana Valley State Forest (AS 41.17.400), and is managed according to the Tanana Valley State Forest Management Plan, 2001 Update. Subunit 5A will be managed for timber production, habitat and recreation while retaining scenic values along the Parks Highway. Unit 5 will remain open to mineral location and leasing.

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

#### **D. Current access and land use**

NC-1583-F is located along the Nenana Ridge Forest Road system and is accessible via a secondary spur road roughly 1.8 miles in length. The spur will be extended an additional 0.25 miles to the sale area. The spur road connects to Nenana Ridge Road just beyond 3.5-mile, which joins the Parks Highway near milepost 328.

NC-1982-F is located along the Upper Grouse Forest Road system and is accessible via an existing secondary spur road roughly 0.25 miles in length. The spur road connects to Upper Grouse Road at roughly 1.5-mile, which joins Nenana Ridge Road around 9-mile before joining the Parks Highway near milepost 328. No additional construction is required to access this sale.

NC-1844-F is located along the Nenana Ridge Forest Road system and is directly accessible via the Nenana Ridge Forest Road. The sale sits just before mile 7, which joins the Parks Highway near milepost 328. No additional construction is required to access this sale.

ANCSA Village Corporation land exists roughly 1.5 miles north of these sales, with private parcels of varying size to the east and west 1+ miles from the sale areas.

Existing land uses consist of motorized recreational access, dog-mushing, hunting, trapping, and personal use and commercial timber harvest.

#### **E. Background and description of proposal**

1. Background: According to the Tanana Valley State Forest Management Plan, Subunit 5A shall be “managed for timber production, habitat and recreation while retaining scenic values along the Parks Highway”. The Division of Forestry is offering these sales with the intent to maintain a productive working forest while continuing to provide habitat, recreation, and scenic values.
2. Timber volume and sustained yield: The proposed project area has an estimated 2,256 Cords (2,031 CCF) of birch fuelwood and 314 MBF (807 CCF) of spruce sawlog on approximately 140 acres. 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 140 acres to be offered will be split between three individual sales, each with one planned cutting unit. Cutting units buffer stand type boundaries and existing harvest units to retain an adequate seed source of mature birch. Some cutting units are designed to be buffered 50-75 feet from primary roads to protect public safety from direct harvest activities.

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- 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). The preferred reforestation method for birch rotational harvest is via natural seeding from adjacent trees. The harvest unit design described above retains adjacent mature forest to provide an adequate birch seed source. Mechanical ground scarification will be required on these sales to expose mineral soil microsites for birch seedling establishment and limit competition from grasses. Reforestation will be assessed five years post-harvest with a regeneration survey if the site appears to have marginal seedling establishment. If surveys indicate inadequately stocked areas (less than a minimum of 450 evenly distributed trees per acre of commercial species), additional silvicultural actions may be performed to intervene and improve stocking.
- b. Access design and construction: Access design, construction, and maintenance will comply with the Forest Resources and Practices regulations (11 AAC 95.285-.355).
  - Primary access to the sale areas will involve use and maintenance of the Nenana Ridge/Upper Grouse Forest Roads, with construction of roughly 0.25 miles of secondary spur road to access NC-1583-F.
  - It is not anticipated that access to proposed sales would require a Fish Habitat Permit issued by ADF&G for a winter stream crossing (AS 16.05.871 (b)) due to their landscape positions.
  - Between individual sale harvests, spur roads will be inactive and maintained in accordance with 11 AAC 95.315 (f).
  - Generally, DOF applies for public easement rights-of-way for long-term routes, but access spur roads do not qualify.
- c. Appraisal method: DOF will appraise the timber value in compliance with 11 AAC 71.092. Commercial sales will be based on transactional evidence and market demand and DOF will apply a value for those products.

**F. Resources and management**

1. Timber.

- a. Timber stand composition and structure: NC-1583-F and NC-1982-F are primarily mature closed-canopy birch forest, with incidental components of other commercial species. NC-1844-F is mature mixed species forest with relatively equal components of both birch and spruce sawtimber.
- b. Stand silvics: Regeneration of birch occurs principally from seed-fall spread by wind, and secondarily from root-collar sprouting. 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



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for harvest and reforestation are discussed in the TVSF Management Plan. Silvicultural harvest systems that facilitate even-aged (natural) management are generally preferred. They mimic the ecological impact of wildfire and other disturbances and result in the greatest increase in site productivity. Even-aged management is normally accomplished through clear cuts, patch cuts and heavy partial cuts (such as seed tree or shelterwood systems), which opens up the site to maximum solar gain. This results in the greatest production of both young hardwood that is important to wildlife and the spruce understory valuable years later as timber. Even-aged management techniques are utilized to provide young, vigorously growing stands in juxtaposition to older, undisturbed stands. Such placement of harvest units can optimize natural seeding and the edge effect. NC-1583-F and NC-1982-F are heavy partial cuts to remove the dominant birch overstory that, in conjunction with scarification, should provide a high-light and exposed mineral soil environment favorable for birch to seed and establish. NC-1844-F is a clear-cut to remove the dominant birch and spruce overstory that, in conjunction with scarification, should provide a high-light and exposed mineral soil environment favorable to release advance regeneration of spruce and for birch to seed and establish.

- 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)). NC-1583-F lies within the upper half of a north-facing concave bowl between 700'-800' above sea level. Slope is predominantly less than 10%, until reaching the backline of the sale nearest the ridge where slopes shift toward 20%. The lower two thirds of the sale are underlain with Fairbanks silt-loam 7-12% slope. This soil type is well drained and sits more than 80 inches above the water table with a moderate runoff potential. The upper third of the sale is underlain with Fairbanks-Steese complex 20-30% slope. This soil type is also well drained with a higher runoff potential.

NC-1982-F sits in a similar north-facing bowl between 650'-750' above sea level. The sale area steepens from west to east, gaining from less than 10% to upwards of 25%. The upper half of the sale is underlain with Fairbanks silt-loam 20-30% slope. This soil type is well drained with a high runoff potential. The lower half of the sale is underlain with Minto silt-loam 7-12% slope. This soil type is moderately well drained with a moderate runoff potential.

NC-1844-F lies in a northwest-facing bowl 650'-850' above sea level. Average slope is less than 15%. The lower half of the sale is underlain with Minto silt loam 7-12% slope. This soil type is moderately well drained with a moderate runoff potential. The upper half of the sale is Fairbanks silt loam, 20-30% slope. This soil type is well drained and has a high runoff potential.

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.

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3. Wildlife habitat and harvest. Should an eagle nest tree be discovered in the sale area, the nest tree will be marked on the ground and a 330-foot no-harvest radius will be established to protect the tree. No critical wildlife habitat has been identified for this area (TVSF Management Plan).

Treatments proposed for this stand are projected to enhance habitat conditions for moose, voles, hares, and ultimately, lynx, marten and fox. In the past, Alaska Department of Fish and Game, Division of Wildlife Conservation have 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 accomplish these objectives snags will be retained wherever feasible to provide late-successional wildlife habitat for hole nesting birds, woodpeckers, small mammals, and other species requiring perching habitat. The unit will be laid out with an uneven edge, along and between timber types. This will create varied edge effect that is 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). NC-1583-F is roughly 500 feet from perennial flowing waters, and NC-1982-F is over 1 mile from perennial flowing waters. NC-1844-F is roughly 0.5 miles from perennial flowing waters. The proposed sale areas fall within the Little Goldstream Creek watershed which drains into Minto Flats before joining Goldstream Creek. 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). 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.
5. Recreation, tourism, and scenic resources. The Nenana Ridge area is used for recreational activities as well as hunting. During the winter months skiing, dog mushing, snow-machining and many other activities are common. The logging road system provides an excellent infrastructure for recreationists to access trails and waterways. The proposed harvest areas are expected to be intermittently visible 2.5+ miles to the south of the Parks Highway. To mitigate impacts to the scenic viewshed, timber sale cutting units will be designed with irregularly shaped harvest boundaries and irregularly shaped retention islands of mature forest. These actions in addition to the mature forest between the proposed sales and the Parks Highway, and generally mellow gradient slopes within the proposed sales should adequately reduce the impact on the scenic viewshed.
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,

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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 Subunit 5A is open to mineral entry and is available for leasing. Mineral potential in this Unit has been rated moderate to low. No active mining claims are established within the sale area. 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.

The sales are also expected to benefit the local economy by providing jobs. It 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 the 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 and social media.

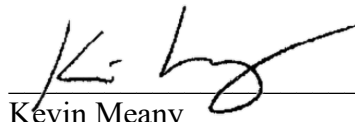
## **VII. PUBLIC COMMENT AND RESPONSE**

DOF received comments from no organizations and no individuals.

## 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 140 acres of mature birch forest and mixed birch and spruce forest from state land within the Nenana Ridge Forest Road area to provide saw-timber & fuelwood as proposed in Alternative 1 and described in this 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 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 Meany  
Northern Region Forester  
Alaska Division of Forestry & Fire Protection

9/12/24  
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](mailto: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 October 4, 2024.

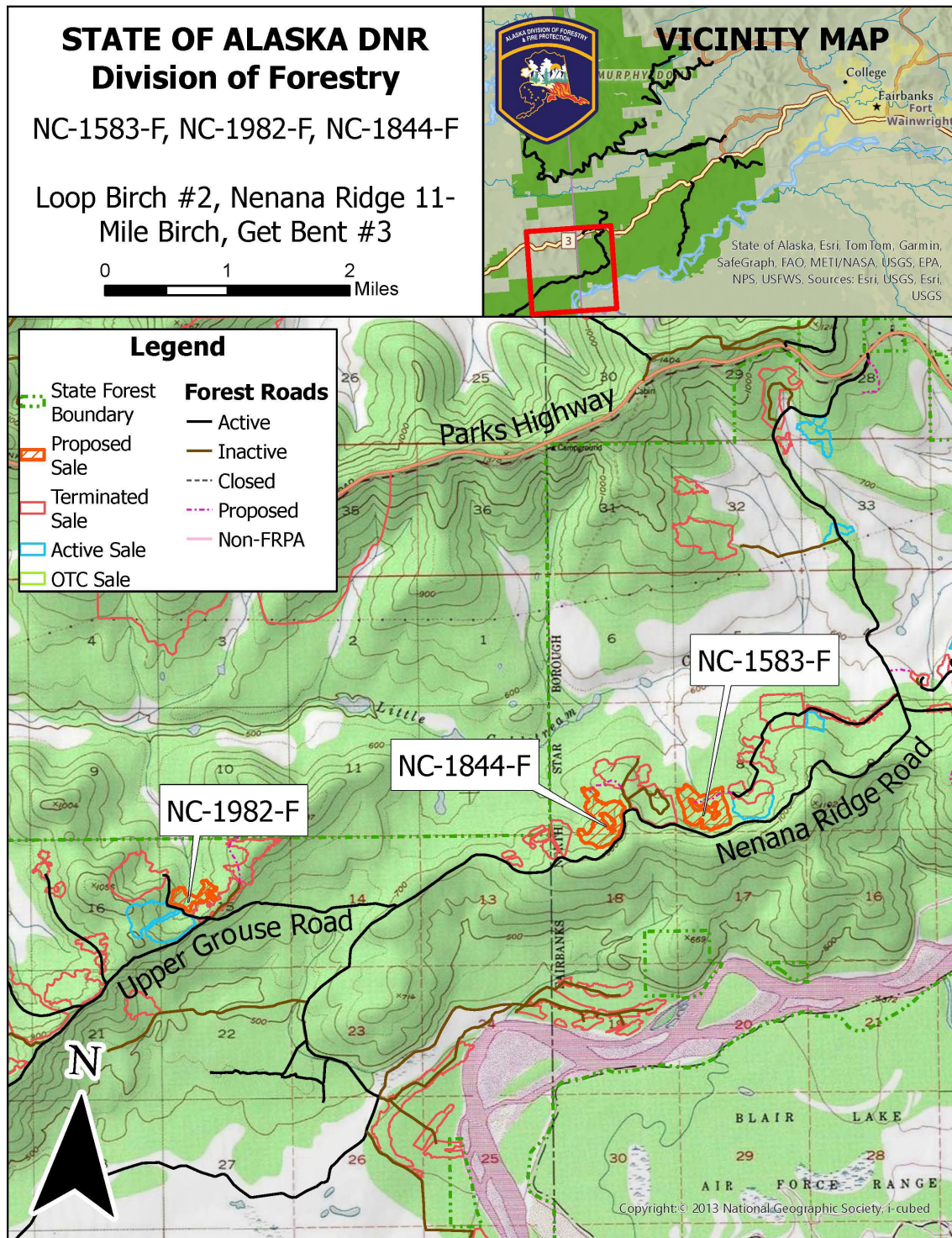
A copy of 11 AAC 02 is enclosed and is also available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.

If you have any questions, please contact Andrew Allaby, Fairbanks-Delta Resource Forester, [andrew.allaby@alaska.gov](mailto:andrew.allaby@alaska.gov), 907-451-2603, 3700 Airport Way, Fairbanks AK 99709.

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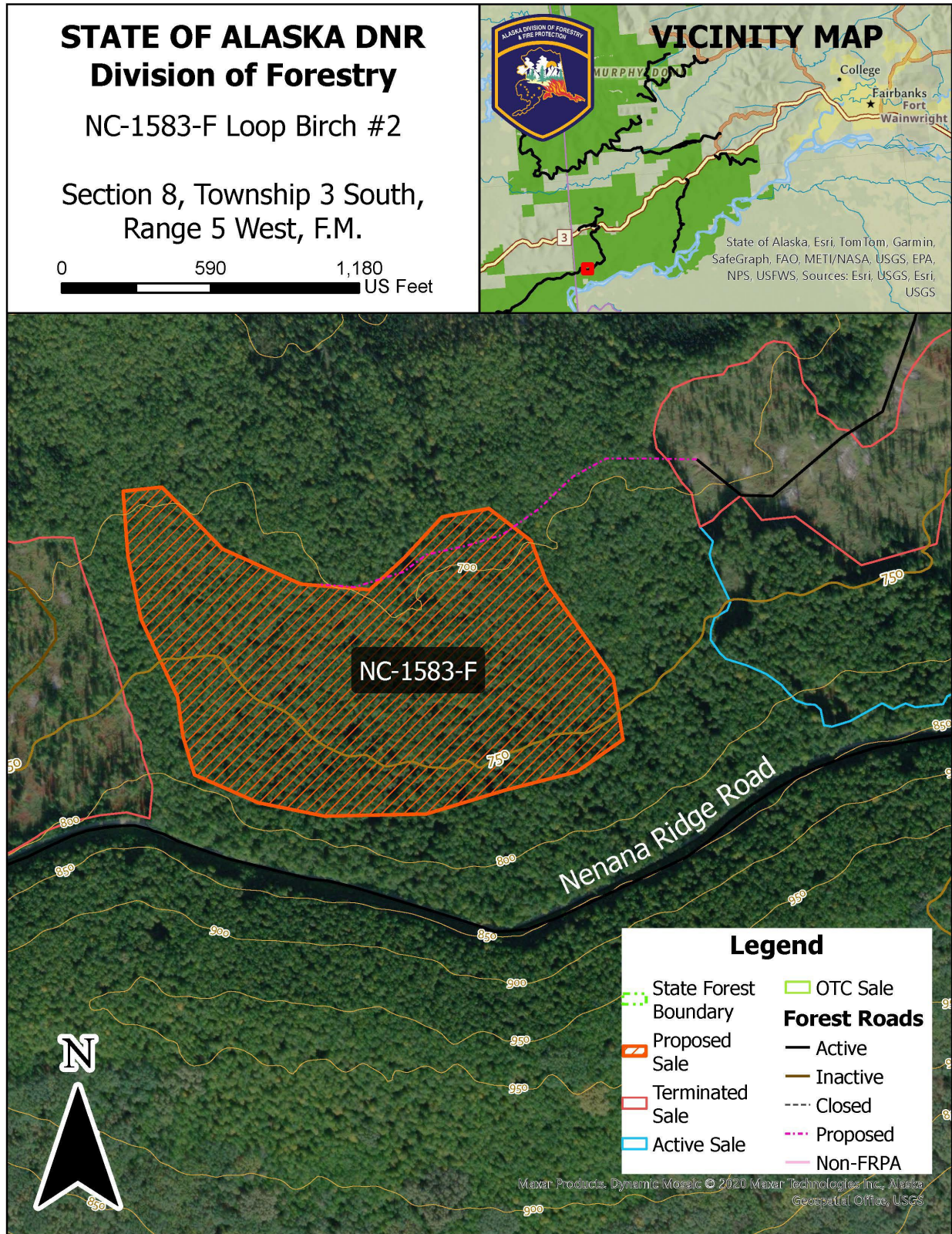
**XI. APPENDICES**

**APPENDIX A: MAPS**



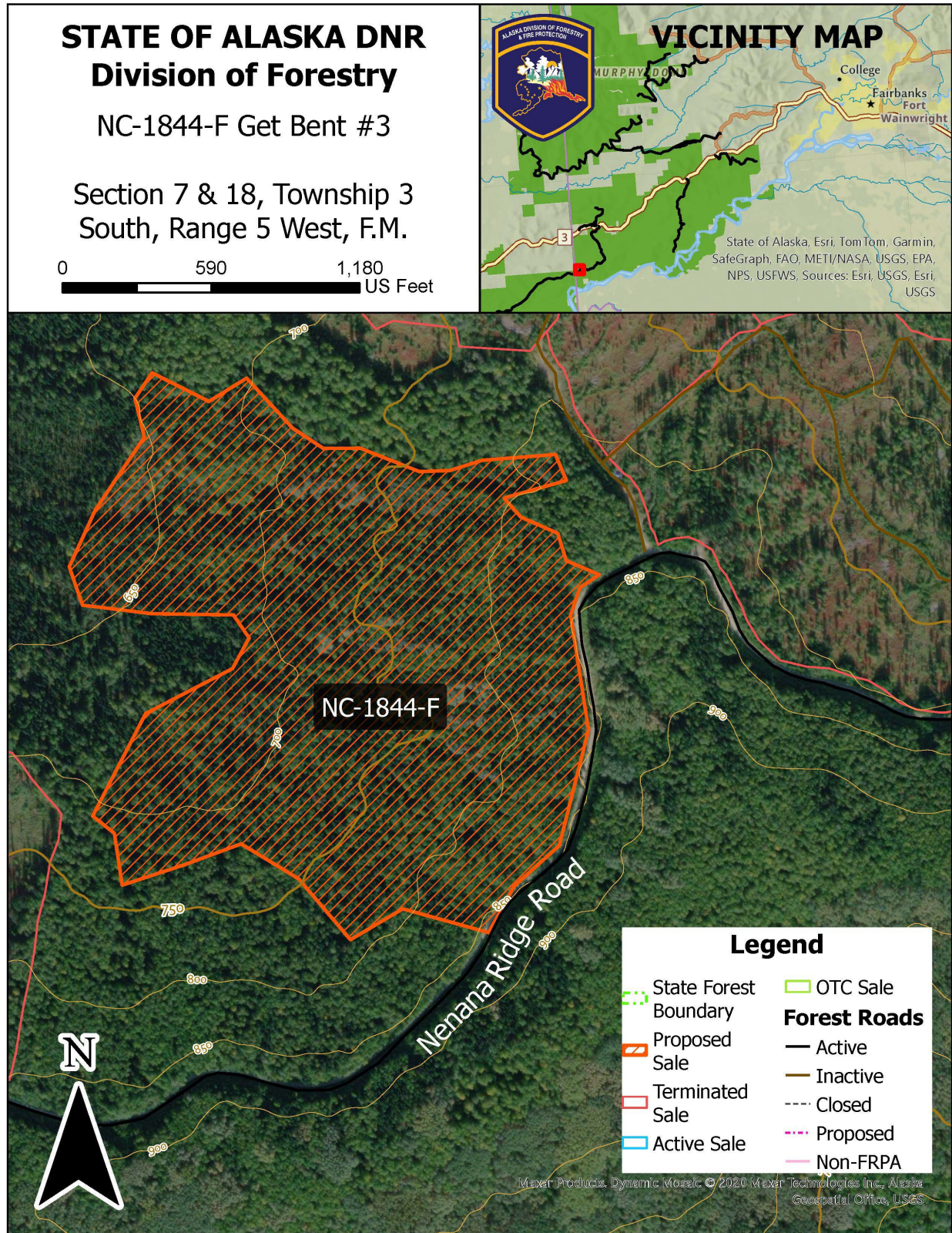


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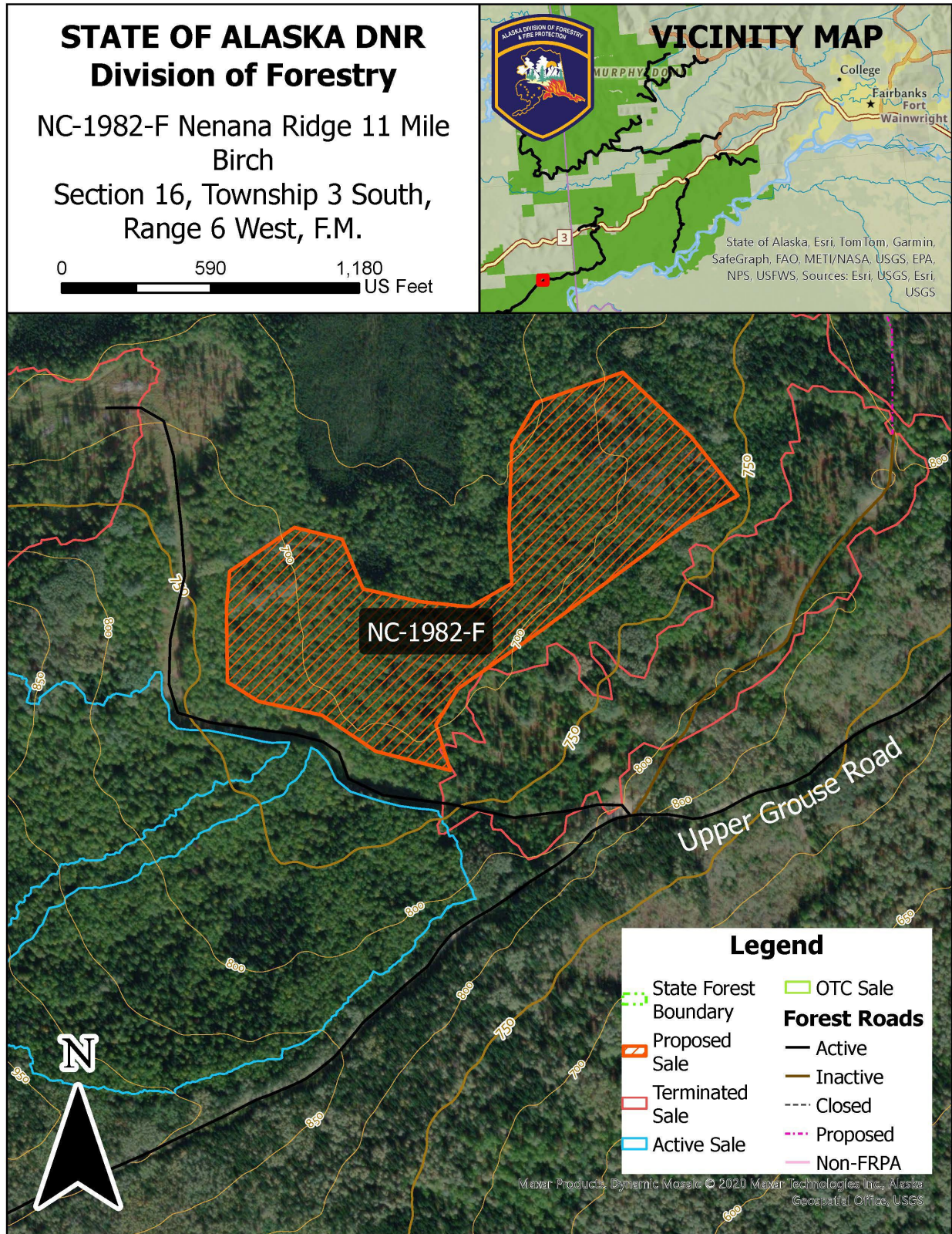


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## **APPENDIX B. APPEAL AND REQUEST FOR RECONSIDERATION REGULATIONS**

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.

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- (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.

(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,

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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

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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.