

# The Alaska Mental Health Trust Authority Trust Land Office

## BEST INTEREST DECISION Control Lake Timber Sale

MHT 9100774  
MH Parcel C32033

In accordance with AS 38.05.801 et seq. and the implementing regulations governing Alaska Mental Health Trust (“Trust”) land management (11 AAC 99), Trust land shall be managed consistently with the responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)). This means that management shall be conducted solely in the best interest of The Trust and its beneficiaries.

In determining the best interest of The Trust and its beneficiaries, and in determining consistency between state law and the Alaska Mental Health Enabling Act, the Executive Director of the Alaska Mental Health Trust Land Office (“TLO”) shall, at a minimum, consider the following interactive Trust management principles in accordance with 11 AAC 99.020:

- Maximization of long-term revenue from Trust land;
- Protection of the corpus;
- Protection and enhancement of the long-term productivity of Trust land;
- Encouragement of a diversity of revenue-producing uses of Trust land; and
- Management of Trust land prudently, efficiently, and with accountability to The Trust and its beneficiaries.

- I. **Proposed Use of Trust Land.** Disposal, through sale or sales, of approximately five (5) million board feet of timber.
- II. **Applicant/File #.** TLO/MHT 9100774.
- III. **Subject Property.**
  - A. **Legal Description.** Portions of sections 19 & 20, Township 71 South, Range 83 East, Copper River Meridian, containing 416 acres more or less.
  - B. **Settlement Parcel Number(s).** MH Parcel # C32033.
  - C. **Site Characteristics/Primary Resource Values.** The parcel has a generally hilly topography with slopes typically less than 35%.
  - D. **Historical and Existing Uses of the Property.** There has been extensive timber harvest in the area and on this parcel. The major road access to Prince of Wales Island runs through this parcel. There is a major intersection of the Thorne Bay, Klawock and Northern Prince of Wales within this parcel.
  - E. **Adjacent Land Use Trends.** There has been extensive timber harvest by the USFS and State of Alaska on adjoining lands.

**F. Previous State Plans/Classifications.** Control Lake is located in Unit 11a of the Prince of Wales Island Area Plan, revised: October, 1998. The proposed activities comply with the intentions stated for this area.

**G. Existing Plans Affecting the Subject Parcel.** Prince of Wales Island Area Plan, revised: October, 1998.

**H. Apparent Highest and Best Use.** The highest and best use for this parcel at this time is timber harvest.

**IV. Proposal Background.** The TLO has engaged in the sale of timber as a major component to its revenue portfolio. The proposed timber sale will dispose of commercially viable timber on Trust lands located near Control Lake, 17 miles west of Thorne Bay, on Prince of Wales Island. The proposed sale is adjacent to previously harvested areas. The proposed sale will provide revenue and access to the parcel. A declining timber supply in southeast Alaska has created a market shortage and increased demand. Increased competition for available fiber should increase the revenue return to the Trust.

**V. Terms and Conditions.** Trust timber disposal will be conducted under conditions that reflect the fair market value and will be subject to opportunity for competitive proposals. Resulting sale contracts will be substantially the same as those used by the TLO for other large timber harvest operations, with revisions recommended, as necessary, by the TLO contract administrator and the Department of Law.

**VI. Resource Management Considerations.** The proposal is consistent with the TLO's adopted Resource Management Strategy (RMS), which emphasizes disposal of Trust assets at the high end of their market values, in a manner that maximizes revenues to The Trust at prudent levels of risk. Consistent with the Investment Policy Statement of The Trust, 85% of Trust timber receipts are placed into the principal account (corpus) of The Trust. Given the likelihood of diminishing values for Trust timber over time, near term sales will therefore result in higher annual interest distributions from The Trust's principal account than would be the case if timber sales occurred over a longer time frame.

**VII. Alternatives.**

- Do Nothing: This alternative assumes that timber values will not diminish over time, which is not a practical assumption, given historic trends and future projections.
- Alternate Development: Due to their character and location, the parcel may be converted to subdivision at a future time. However, commercial harvest of the timber will, in some cases, facilitate other commercial opportunities on the lands.
- Proceed as Proposed: This is the preferred alternative given the likely marketplace circumstances that will affect Trust timber values.

### **VIII. Risk Management Considerations.**

- A. **Performance Risks.** Performance risks will be minimized through professional sale layout designs, a timber sale process that minimizes the risk of having the timber being purchased at below market values or by a person or entity that does not have the demonstrated ability to perform under the contract, and by strict enforcement of the timber sale contract.
- B. **Environmental Risks.** The proposed timber sale will not result in significant environmental risks to The Trust. Timber sale operations are governed by State and Federal regulations, as well as contract provisions requiring strict compliance with the Forest Practices Act, and Regulations to minimize the risk of environmental impacts to air, water, fish, and wildlife. The contract will be strictly enforced.
- C. **Public Concerns:** Timber sale proposals usually result in public concerns about potential impacts. Where necessary, the TLO will attempt to minimize these concerns through public outreach actions, including meetings with local government representatives in the applicable areas. Another concern that may be raised is the possibility of Trust timber being exported, rather than produced locally. While The Trust will encourage its timber buyers to make timber available to local producers, it is inconsistent with Trust management principals if doing so will reduce value received by The Trust.

### **IX. Due Diligence.**

- A. **Site Inspection.** The TLO experience managing timber resources in Southeast Alaska. Forestry consultants under contract to the TLO have been consulted and concur with the TLO's recommendation to harvest the subject timber. The parcel has been visited by the TLO staff and has been evaluated for timber harvest.
- B. **Valuation.** Timber values will be estimated by the TLO prior to an offering and set through the offering process, which will have a competitive element associated with it.
- C. **Terms and Conditions Review.** Timber purchase and sale agreements will be substantially the same as that used by the TLO for other large timber harvest operations, with revisions recommended, as necessary, by the TLO and the Department of Law.

### **X. Authorities.**

- A. **Applicable Authority.** AS 37.14.009(a), AS 38.05.801, and 11 AAC 99.
- B. **Inconsistency Determination.** As the proposed material sale is specifically authorized under 11 AAC 99, any relevant provision of law applicable to other state lands is inapplicable to this action if it is inconsistent with Trust responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)) as clarified by AS 38.05.801 and Alaska Mental Health Trust land regulations (11 AAC 99). 11 AAC 99 includes

determinations that certain State statutes applicable to other State land do not apply to Trust land unless determined by the Executive Director, on a case-by-case basis, to be consistent with 11 AAC 99.020. The State Statutes deemed inconsistent with Trust management principles and inapplicable to Trust land by these regulations have not been applied to this decision or this action, including, but not limited to, AS 38.04 (Policy for Use and Classification of State Land Surface), AS 38.05.035 (Powers and duties of the director), AS 38.05.300 (Classification of land), AS 38.05.945 (Notice), AS 38.05.946 (Hearings), and 11 AAC 02 (Appeals); AS 38.05.112 (Forest Land Use), AS 38.05.113 (Five-Year Sale Schedule), to the extent that it does not apply to private land owners. In addition, AS 38.05.115 (limitations and conditions of sale) and its implementing regulations are hereby deemed inconsistent to the extent that they would limit volumes available for harvest by The Trust and to the extent that said limitations would benefit others at a cost to The Trust.

- XI. Trust Authority Consultation.** The Alaska Mental Health Trust Resource Management Committee was consulted on September 2, 2014. The Committee recommended that the proposed transaction be forwarded to the Alaska Mental Health Trust Board of Trustees. The Board of Trustees was consulted on September 3, 2014, and the Board of Trustees concurred with the proposed action subject to the outcome of the notice process.
- XII. Best Interest Decision.** Given the information above and the information contained in the complete record, the Executive Director finds that the proposed transaction is in the best interest of The Trust, subject to the terms and conditions addressed in this decision. The decision is based upon the consideration of the five Trust management principles set out in 11 AAC 99.020 and is in full compliance with 11 AAC 99. This decision does not preclude the TLO from determining that an alternative proposal will serve the best interest of The Trust. A future determination of that nature will require a best interest decision specific to the proposal.
- XIII. Opportunity for Comment.** Notice of this Best Interest Decision will take place as provided under 11 AAC 99.050. Persons who believe that the decision should be altered because it is not in the best interest of The Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020 or any other provision of 11 AAC 99, must provide written comments to the TLO during the notice period. Following the comment deadline, the Executive Director will consider timely written comments that question the decision on the basis of the best interest of The Trust and its beneficiaries or inconsistency with 11 AAC 99. The Executive Director will then, in his or her discretion, modify the decision in whole or in part in response to such comments or other pertinent information, or affirm the best interest decision without changes. The best interest decision as modified or affirmed will become the final agency action, subject to reconsideration procedures under 11 AAC 99.060. Additional notice will be provided for a substantially modified decision. If no comments are received by the end of the notice period, this best interest decision will be affirmed and the proposed action taken. (See notice for specific dates.)

**XIV. Reconsideration.** To be eligible to file for reconsideration of this Best Interest Decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

Persons who submit timely written comments will be provided with a copy of the final written decision, and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the request for reconsideration. If the Executive Director takes no action during the 20-day period following the request for reconsideration, the request is considered denied. Denial of a request for reconsideration is the final administrative decision for purposes of appeal to the superior court under AS 44.62.560.

**XV. Available Documents.** Background documents and information cited herein is on file and available for review at the TLO, located at 2600 Cordova Street, Suite 100, Anchorage, Alaska 99503. Phone (907) 269-8658. Email: [mhtlo@alaska.gov](mailto:mhtlo@alaska.gov).

The disposal action proposed by this decision will occur no less than 30 days after the first publication date of this decision, and after the conclusion of the TLO administrative process. For specific dates or further information about the disposal, interested parties should contact the TLO at the above address, or visit the website at: [www.mhtrustland.org](http://www.mhtrustland.org).

**XVI. APPROVED:**

  
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Marcie Menefee  
Executive Director  
Alaska Mental Health Trust Land Office

  
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Date