

**Alaska Mental Health Trust Authority**  
**Trust Land Office**  
**Notice under 11 AAC 99.050 of**  
**Decision for the Negotiated Sale of Timber – YAK Timber – Yakutat**  
**MHT #9100977**

Notice is hereby given that, pursuant to the provisions of AS 38.05.801 and 11 AAC 99, the Executive Director of the Alaska Mental Health Trust Land Office (TLO) has determined that it is in the best interest of the Alaska Mental Health Trust and its beneficiaries to complete a timber sale of certain Trust timber to Yak Timber LLC. The basis for this determination is explained in a written best interest decision prepared by the Executive Director pursuant to 11 AAC 99.040.

The Trust land affected by the decision is adjacent or near to Yakutat, Alaska, and is more particularly described as located within Section 31 and 32, Township 27S, Range 34E, Copper River Meridian, containing approximately 508 acres (MH Parcel(s) C20439) a portion of parcel.


Persons who believe that the written decision should be altered because it is not in the best interests 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 on or before **4:30 PM, September 13, 2019**. Comments should be submitted to the TLO at 2600 Cordova Street, Suite 100, Anchorage, AK 99503, or by fax (907) 269-8905 or email [mhtlo@alaska.gov](mailto:mhtlo@alaska.gov). Following the comment deadline, the Executive Director will consider timely comments that question the decision on the basis of the best interest of the Alaska Mental Health Trust and its beneficiaries or inconsistency with 11 AAC 99, and the best interest decision may be changed in response to such written comments or other information. Commenting parties will be provided a copy of the final best interest decision after the end of the notice period.


To be eligible to file for reconsideration of the best interest decision, or to file a subsequent appeal to the Superior Court, a person must have submitted written comments during the notice period. Eligible persons will have twenty (20) calendar days after published notice of or receipt of the final written decision to request that the Executive Director reconsider the decision under 11 AAC 99.060(b).

Copies of the written decision are available at the Trust Land Office, or at <https://alaskamentalhealthtrust.org/trust-land-office/>. If you have any questions concerning this action, please contact the Trust Land Office at (907) 269-8658.

In compliance with the Americans with Disabilities Act, the Alaska Mental Health Trust is prepared to accommodate individuals with disabilities. Please contact the Trust Land Office at (907) 269-8658 for assistance. Requests for assistance must be received at least 96 hours prior to the comment deadline in order to ensure that any necessary accommodations can be provided.

The Executive Director of the TLO reserves the right to waive technical defects in this notice or to amend, postpone, or vacate the best interest decision.

  
Wyn Menefee  
Executive Director

  
Date  
Published Anchorage Daily News: 08/12/2019

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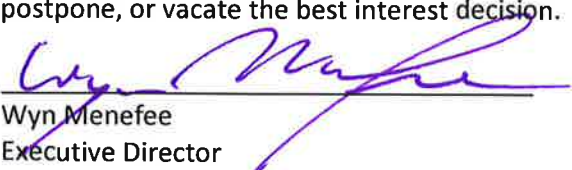
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Wyn Menefee  
Executive Director

8/7/19  
Date

Published Juneau Empire: 08/11/2019

**The Alaska Mental Health Trust Authority**  
**Trust Land Office**  
**BEST INTEREST DECISION**  
**Negotiated Sale of Timber – YAK Timber – Yakutat**

MHT: #9100977  
MH Parcel(s): C20439

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.** Selective Timber Harvest.

**II. Applicant/File #.** Negotiation of timber sale with Yak Timber / MHT 9100977.

**III. Subject Property.**

- A. Legal Description.** Township 27 S; Range 34E, CR Meridian, sections 31 and 32 containing 508 acres more or less (a portion of parcel). ASLS 84-89.
- B. Settlement Parcel Number(s).** C20439.
- C. Site Characteristics/Primary Resource Values.** The parcel is relatively flat, slopes less than 10%. Airport Road, primary access between Yakutat and Yakutat Airport, bisects parcel.
- D. Historical and Existing Uses of the Property.** Two-thirds of the parcel were previously harvested in 1960’s. Timber sale is composed of remaining old growth timber which is a designated “Greenbelt-Open Space” area on ASLS 84-89. Selective harvest will be designed to remove about one-third of stems.
- E. Adjacent Land Use Trends.** Adjacent parcels and area are utilized primarily as subdivisions, rock quarries, and commercial development.
- F. Previous State Plans/Classifications.** The property is within the Yakutat Borough and is a portion of State Subdivision ASLS 84-89, Yakutat Alaska

Subdivision. It is believed the proposed action falls within development parameters.

**G. Existing Plans Affecting the Subject Parcel.** City and Borough of Yakutat Planning and Zoning. Yakataga Area Plan, Amended January 16, 2004.

**H. Apparent Highest and Best Use.** The apparent highest and best use of these parcels will be subdivision development. The proposed selective timber harvest should not affect future development.

**IV. Proposal Background.** The TLO was approached by Yak Timber LLC about available timber in the Yakutat area. The proposed sale is the remaining timber that the AMHT has in the area. The selective harvest of timber should not adversely affect the characteristics of the tract. The TLO is currently developing Blocks 9, 10, 11, 12, 13, 14, 15, & 16 of subdivision ASLS 84-89. This is adjacent to Tract C & D of the plat which will be harvested.

**V. Terms and Conditions.** Trust timber disposal will be conducted under conditions that reflect fair market value. 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) (adopted March 2016), 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 regulation, 85% of Trust timber receipts are placed into 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 distribution from the Trust's principal account than would be the case if timber sales occurred over a longer time frame.

**VII. Alternatives.**

**A. Do Nothing:** This alternative assumes that timber values will not be maximized by harvesting at this time. Timber is a commodity and the current markets allow for solid financial returns that have not been available in the recent past and may or may not be available in the future.

**B. Alternative Development:** Due to their character and location, the parcels do not lend themselves to other development opportunities that would produce a return to the Trust comparable to a commercial timber harvest. Commercial harvests of the timber may, in some cases, facilitate other commercial opportunities on the lands.

**C. Proposed Alternative:** This alternative will provide the Trust with revenue. The harvest should not adversely impact other future development.

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

- A. Performance Risks.** Performance risks will be minimized through professional sale 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 sales 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 Alaska Forest Resources and Practices Act to minimize the risk of environmental impacts to air, 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 purchasers 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 has 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 negotiated by the TLO. The negotiations will be conducted to bring the best possible price and benefit to the Trust. Prices will be determined by market conditions, difficulty of access, and experience of TLO staff. Returns are expected to exceed \$300,000.
- 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 timber 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 landowners. 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.** TLO consultation is defined in statute and regulation under AS 37.14.009(a)(2)(C) and 11 AAC 99.050 and clarified under 11 AAC 99.030(d) which requires the executive director to consult before issuing a public notice of a written decision of best interest. This consultation was completed with the Resource Management Committee on August 1, 2019.
- 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.
- A. Non-competitive Disposal Determination.** 11 AAC 99.020 (d) allows for the disposal of Trust land through a competitive basis, unless the Executive Director in consultation with the Trust Authority, determines in a written decision required by 11 AAC 99.040 that a non-competitive disposal is in the best interest of the Trust and its beneficiaries. A negotiated timber sale is in the interest of the Trust because of the improbability of other competitive interests because of the remote location and mobilization costs, while combining with an already mobilized Yak Timber in a remote area makes this sale economical. Not conducting a negotiated sale at this time will likely prevent future sale of this timber at a later time due to the scale of this timber sale and remote location.
- 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 may 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.

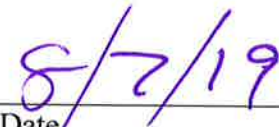
Persons who submit timely written comments will be provided with a copy of the final written decision and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). The Executive Director 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: <https://alaskamentalhealthtrust.org/trust-land-office/>.

**XVI. APPROVED:**

  
\_\_\_\_\_  
Wyn Menefee  
Executive Director  
Alaska Mental Health Trust Land Office

  
\_\_\_\_\_  
Date