

Proposed Regulation Change

20 AAC 40.610 is repealed and readopted to read:

20 AAC 40.610. Allocation of trust land revenues between principal and income

(a) Revenues received from the management of trust land will be allocated between principal and income as follows:

(1) to principal,

(A) net proceeds from land sales transactions;

(B) net proceeds from royalties from resource transactions; and,

(C) net proceeds from permanent easements;

(2) to income,

(A) interest and transaction costs;

(B) recovery of development costs from land sales, royalties, or other resource transactions and perpetual easements;

(C) bonus bids; and

(D) rents and other revenues from the temporary use of land, regardless of whether the use is exclusive or non-exclusive, or is short- or long-term.

(b) Development costs are attributable to the management of specific trust land in preparation for a transaction if approved in advance.

(1) Approval must be based on a development plan that considers the value of the land or resource prior to the commitment of development costs compared to the value of the improved land or resource; the risk that the value of the improvement will not be realized; and the duration of time between improvement and consummation of the land or resource transaction.

(2) Development costs not approved in advance are generally not attributable to the management of specific trust land in preparation for a transaction.

(3) Notwithstanding (2), if a timber sales transaction is not subject to an approved development plan, net proceeds will be allocated 85% to principal and 15% to income.

(c) Valuations for the purposes of this section will be based on the best evidence reasonably obtainable. After reviewing the methodology and supporting evidence, the board may rely on Department of Natural Resources estimates of value.

(d) In this section,

(1) “net proceeds” means all financial or other consideration attributable to a transaction less

(A) interest; and,

(B) development costs.

(2) “development costs” means all expenses reimbursed to the Department of Natural Resources under AS 37.14.041(a)(4)(B) attributable to the management of specific trust land in preparation for a transaction, including surveying, marketing, clearing, accessing, improving, or otherwise enhancing the value or marketability of the land or resource.

(3) “trust land” or “land” has the meaning given in 11 AAC 99.990(2), except that interests in real property held indirectly through business entities are not land, but may be treated as intangible assets for purposes of allocation if the land and the entity are sold in the same transaction.

Authority: AS 37.14.031