

Reconsideration Provision

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may request reconsideration, in accordance with 11 AAC 02. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040 (c) and (d) and may be mailed or delivered to Daniel S. Sullivan, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1.907.269.8918; or sent by electronic mail to dnr.appeals@alaska.gov.

If reconsideration is not requested by that date or if the Commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on the 31st day after issuance. Failure of the Commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

ATTACHMENT
TANANA BASIN AREA PLAN AMENDMENT NO. 90-002A55

Teklanika Delta Management Unit
Subunit 4I1 (Teklanika)

Name: The subject's area is located within the State of Alaska, Department of Natural Resource's Northern Region along the Teklanika and Nenana Rivers, approximately 50 miles west of Fairbanks and 7 miles southwest of Nenana. The project area is within Township 5 South, Range 9 West, Township 6 South, Range 9 West, and Township 6 South, Range 10 West, Fairbanks Meridian, encompassing approximately 16,000 gross acres, as depicted on the attached map.

Authority: The authority to revise plans is derived from AS 38.04.065 (b); 11 AAC 55.030 (f) defines when a revision constitutes a plan amendment.

Current Plan:

1. The management intent for the Tanana Basin Area Plan, Management Unit 4I states: "Parcels no larger than 5 acres will be allowed within 1,000 feet of the ordinary high water mark of the Teklanika or Nenana Rivers. Larger parcels (up to 40 acres) will be offered 1,000 feet beyond the river."
2. The management intent for Management Unit 4I separates Subunit 4I1 into four separate homestead offerings (Teklanika I-IV Homesteads), with separate maximum acreages available for offering.

Proposed Plan Amendment:

1. This amendment seeks to modify the management intent to allow for parcels greater than 5 acres (up to 5.2 acres) in size within 1,000 feet of the ordinary high water mark of the Teklanika and Nenana Rivers. This amendment will replace language in the management intent for Management Unit 4I to read: "Parcels no larger than **5.2** acres will be allowed within 1,000 feet of the ordinary high water mark of the Teklanika or Nenana Rivers. Larger parcels (up to 40 acres) will be offered 1,000 feet beyond the river."
2. This amendment proposes to remove the maximum conveyable acreage for Teklanika Homesteads I-IV to allow for the offering of the area as a single settlement unit.

Explanation:

1. The Teklanika III Remote Recreational Cabin Sites project area is being considered for offering in 2012 or a later offering. The management intent in TBAP was written when the Homestead program was active and allowed the staking of parcels less than 5 acres. Current Remote Recreational Cabin Sites regulations specify that a parcel may not be less than 5 acres (11 AAC 67.820). The management intent of TBAP narrowly constrains a parcel within the Subunit 4I1 to 5.00 acres. The limited flexibility in parcel size leads to an increase in fieldwork, number of monuments, and calculation and platting time. The increase of the maximum parcel size to 5.2 acres will allow surveyors a 0.2-acre range of flexibility in parcel size and reduce overall survey costs.

2. The amendment to management intent is to eliminate the maximum conveyable acreage for each phase of the Teklanika Homesteads (I-IV) offering to allow for the offering of the remaining conveyable acreage within Teklanika II-IV homestead areas in a single offering. Offering the remaining acreage under multiple additional offerings, or under a single offering where a small number of parcels would be permitted in each area, would not be feasible. Eliminating the maximum conveyable acreage will allow for the offering of up to 500 acres (up to 25 parcels) in a single large offering area as proposed in the Preliminary Decision -Teklanika III Remote Recreational Cabin Sites Project Area, dated July 10, 2011.

Assessment: The following alternatives are being considered:

1. amend the Tanana Basin Area Plan as described above, allowing for parcels up to 5.2 acres within 1,000 feet of the OHW of the Teklanika and Nenana Rivers, and eliminating the maximum conveyable acreage for Teklanika I-IV Homesteads;
2. do not amend the Tanana Basin Area Plan to allow parcels greater than 5.00 acres within 1,000 feet of the Teklanika or Nenana Rivers; or
3. do not amend the Tanana Basin Area Plan to remove the maximum conveyable acreage restriction for each of Teklanika I-IV Homesteads.

Alternative 1 is the preferred alternative. The amendments proposed above will reduce overall survey costs and allow for the offering of Teklanika I-IV Homesteads as a single project area under a single set of management constraints.

Alternative 2 is not preferred. The amendment to the parcel size will allow a 0.2-acre flexibility in parcel size, and reduce the cost of survey. Not amending TBAP will allow no flexibility in parcel size and will likely result in increased survey cost.

Alternative 3 is not preferred. The removal of the conveyable acreage restriction will allow for the offering of the Teklanika I-IV Homesteads in a single offering. Not amending TBAP would require the offering of the remaining conveyable acreage in separate offerings, or a single offering with separate staking areas, and would not be administratively feasible.

AS 38.04.065 (b) Requirements: The factors identified in this section of statute have been considered in the Preliminary Finding and Decision for the Teklanika III Remote Recreational Cabin Sites project area (ADL 419238), issued on July 10, 2011 and the proposed action is consistent with that portion of the statute. The proposed area plan amendment received public notice under AS 38.05.945 Notice in conjunction with the Preliminary Finding and Decision for the Teklanika III Remote Recreational Cabin Sites project area offering. The public notice period ended August 25, 2011. Two objections were received regarding increasing the maximum parcel size within 1,000 feet of the Teklanika and Nenana Rivers to 5.5 acres. As a result of public comment DNR DMLW has modified the amendment to increase the maximum lot size to a lower figure of 5.2 acres.