

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT DILLINGHAM**

NONDALTON TRIBAL COUNCIL, KOLIGANEK)
VILLAGE TRIBAL COUNCIL, NEW STUYAHOK)
TRADITIONAL COUNCIL, EKWOK VILLAGE)
COUNCIL, CURYUNG TRIBAL COUNCIL,)
LEVELOCK VILLAGE COUNCIL, TROUT)
UNLIMITED and AIFMA COOPERATIVE)

Plaintiffs,)

v.)

STATE OF ALASKA DEPARTMENT OF)
NATURAL RESOURCES, and TOM IRWIN,)
Commissioner of Natural Resources,)

Defendants,)

and)

PEBBLE LIMITED PARTNERSHIP, Acting through)
its General Partner, PEBBLE MINES CORP.,)

Case No. 3DI-09-46 CI

Intervenors.)

**STIPULATION FOR REMAND AND
DISMISSAL WITHOUT PREJUDICE**

This stipulated Agreement is entered into between the parties to this action:

Plaintiffs Nondalton Tribal Council, Koliganek Village Tribal Council, New Stuyahok
Traditional Council, Ekwok Village Council, Curyung Tribal Council, Levelock Village
Council, Trout Unlimited and AIFMA Cooperative (collectively, “Tribes” or
“Plaintiffs”), the State of Alaska, Department of Natural Resources (“DNR”), including
Commissioner of Natural Resources Daniel S. Sullivan, successor to defendant Tom

Irwin, and Pebble Limited Partnership, acting through its general partner, Pebble Mines Corporation (“PLP”).

WHEREAS:

1. DNR intends to initiate the process to revise certain aspects of the 2005 Bristol Bay Area Plan (“2005 BBAP” or “Plan”) in accordance with AS 38.04.065(a), as stated in the attached June 29, 2012 affidavit of Martin Parsons, the Deputy Director of DNR’s Division of Mining, Land and Water;

2. Counts 1 through 8 in the Third Amended Complaint allege error in land use classification decisions documented in Land Classification Order No. SC-04-002 (Apr. 19, 2005), which states that the classifications in the Order are based on the written justification contained in the 2005 Bristol Bay Area Plan;

3. 11 AAC 55.270 authorizes any person, group or agency to propose a land use classification or reclassification;

4. DNR has elected to treat causes of action one through eight of the Third Amended Complaint as a petition to reclassify land under 11 AAC 55.270 and to do so for purposes of the revisions described in the June 29, 2012 affidavit of Martin Parsons;

5. The adoption of revisions to an area land use plan, including decisions to classify or reclassify land, is a decision of the Department of Natural Resources subject to the DNR appeal and reconsideration procedures at 11 AAC 02.010-.900;

6. Count 9 in the Third Amended Complaint alleges that DNR has violated the constitutional principle of sustained yield, the requirements of AS 38.05.300, and has abused its discretion by not adopting a regulatory definition for a subsistence land use classification;

7. AS 44.62.220 authorizes an interested person to petition DNR for the adoption of a regulation that defines a subsistence land use classification; and

8. AS 38.04.900(a) authorizes the DNR commissioner to adopt under the Administrative Procedure Act (AS 44.62) regulations believed necessary by the commissioner to carry out the purposes of AS 38.04, including the provisions of AS 38.04.065, Land use planning and classification;

THE PARTIES THEREFORE AGREE:

1. They will request that the Court enter the attached Order remanding the first through eighth causes of action in the Third Amended Complaint to DNR to address as a petition to reclassify land, in accordance with 11 AAC 55.270, and dismissing the first through eighth causes of action without prejudice.

2. The primary objectives of the revision process include:

(a) establish a management unit and accompanying classification or co-classifications for the western Iliamna Lake shorelands;

(b) revise the definition of the “minerals” land use designation to better correspond with the Mineral Land classification definition at 11 AAC 55.130;

(c) revise the list of criteria that are used to identify sensitive habitats to include caribou and moose wintering and calving areas;

(d) revise the definition of “recreation” to better correspond with the Public Recreation Land classification definition at 11 AAC 55.160, by including sport hunting and sport fishing as recreation;

(e) reclassify as Wildlife Habitat Land (11 AAC 55.230) the spawning and rearing areas of navigable anadromous waters; and

(f) co-classify the Lower Talarik Creek Special Use Area as Wildlife Habitat Land (11 AAC 55.230) and Public Recreation Land (11 AAC 55.160).

The proposed changes, described in (a) through (f) above, may affect other aspects of the 2005 BBAP, in which case additional revisions to the Plan may be made.

3. These proposed changes to the Plan meet the regulatory definition of a plan amendment at 11 AAC 55.030(f)(1)(A). Therefore, pursuant to 11 AAC 55.030(f)(1), the plan revision process for the BBAP must comply with AS 38.04.065, including the same procedural and public participation guarantees applicable to the initial development of an area land use plan.

4. DNR will make its best effort to issue a public review draft of revisions to the 2005 Bristol Bay Area Plan no later than 140 days (20 weeks) following entry of the attached Order, and DNR shall provide a public comment period on the draft revisions that is no shorter than 90 days.

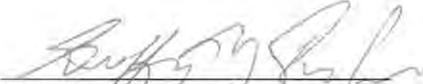
5. DNR will make its best effort to issue a commissioner’s decision regarding revisions to the 2005 Bristol Bay Area Plan no later than one year (365 days) following entry of the attached Order.

6. The ninth cause of action in the Third Amended Complaint, alleging that DNR has violated the constitutional principle of sustained yield, the requirements of AS 38.05.300, and has abused its discretion by not adopting a regulatory definition for a subsistence land use classification, shall be dismissed without prejudice.

7. The Parties do not waive any causes of action, cross-claims, rights or defenses in any future administrative or judicial proceedings.

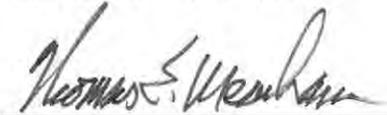
8. Each Party shall bear its own costs and attorneys' fees.

Respectfully submitted on this 31st day of August, 2012.



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