

**State of Alaska**  
**Department of Natural Resources**  
**Division of Mining, Land & Water**  
**Northern Regional Office**

Lease Renewal Decision  
ADL 21408 US Forest Service, Pacific Northwest Research Station  
Bonanza Creek Experimental Forest  
Public & Charitable Lease

**Decision to Renew Lease**

Per AS 38.05.070(e), the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Northern Regional Office (NRO) has made the decision to renew an existing lease for the Bonanza Creek Experimental Forest (BCEF), located on state lands within the Tanana Valley State Forest (TVSF) at less than fair market value, for another 55-year term, subject to updated lease conditions.

The applicant, the Pacific Northwest Research Station of the U.S. Forest Service, will continue management of the BCEF for research purposes, until 2055 when the property is to be conveyed to the University of Alaska (University) as a Research Forest under AS 14.40.365(b).

**Existing Improvements**

Improvements and structures are for scientific purposes as part of the Bonanza Creek Long Term Ecological Research project, and other research projects authorized by the University and the lessee. Decisions by the lessee regarding forest management and placement or removal of structures is authorized by the current lease, and the lease renewal.

**Scope of Review**

The scope of this decision is to determine if it is in the public and State's best interest to renew a public and charitable lease for the BCEF to the U.S. Forest Service, Pacific Northwest Research Station for an additional 55-year period, and to determine the appropriate lease provisions.

**Background Information**

The original lease for the BCEF was issued July 1, 1963 to the Northern Forest Experimental Station of the U.S. Forest Service for a 55-year term, and an aggregate of 3,320 acres, more or less. The lease was later amended by a First Endorsement dated November 14, 1967 to include an additional 8,320 acres, more or less. On October 16, 1981, the lease was further amended to exclude lands from the earlier version of the lease that were not under state ownership, adjusting total acres from 12,487.32 acres to 12,353.84 acres, more or less. Currently, the lessee will be the U.S. Forest Service, Pacific Northwest Research Station.

The land encompassed by this lease is scheduled to be conveyed as part of the larger "University Research Forest," ADL 229382, to the University of Alaska after June 30, 2055 under AS 14.40.365(b). As a result, the lease will terminate when the land is conveyed to the University. Although a 2009 decision of the Alaska Supreme Court invalidated the overall University land grant law, it specifically retained the portion that created the University Research Forest. The Court asserted that since the main purpose of the research forest according to AS 14.40461(a) was "for the purpose of advancing research into forest practices, ecology, wildlife management, and recreation" it was clearly separate in purpose from the rest of the act,

and therefore could be severable and upheld as constitutional. The law that directs the conveyance of the BCEF to the University in 2055 remains valid.

### **Authority**

This lease application is being adjudicated pursuant to AS 38.05.810(a) public and charitable use, and AS 38.05.070(e) lease renewals. The authority to execute the renewal decision for a non-state agency lease at less than fair market value has been delegated to the Director, DMLW.

### **Administrative Record**

The administrative record for the lease renewal consists of this case file ADL 21408, conveyance of the “University Research Forest” under AS 14.40.365(b), the University research forest AS 14.40.461, the Eastern Tanana Area Plan (ETAP), and the Tanana Valley State Forest Management Plan (TVSFMP).

### **Location and Legal Description**

Location: Extending from the Parks Highway to the Tanana River, between mile posts 336 and 341, approximately 12 linear miles southwest of Fairbanks, as shown on the attached Map.

Legal Description:

#### Township 2 South, Range 3 West, Fairbanks Meridian

Section 20: Lots 1, 2, 3, 4, 5, and 6, NW<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>.

Section 21: Lots 1, 2, 3, 4, and 5, N<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>.

Section 28: Lots 3, 4, and 5, S<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>.

Section 29: Lots 1, 2, 3, 4, 5, 6, 9, 10, and 11.

Section 30: Lot 9.

Section 31: Lots 1, 5, 6, 8, and 9, SE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>.

Section 32: Lots 2, 3, 4, 5, 8, and 9.

Containing approximately 2,474.72 acres, more or less.

According to the survey plat accepted by the United State Department of the Interior, Bureau of Land Management in Washington, D.C. on October 30, 1919.

#### Township 2 South, Range 3 West, Fairbanks Meridian

Portions of Tract A within Protracted Sections 6, 7, 18, and 19.

Containing approximately 2,435.21 acres, more or less.

According to the survey plat accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on January 4, 1966.

#### Township 2 South, Range 3 West, Fairbanks Meridian

Portions of Tract C within Protracted Sections 15, 21, 22, and 28.

Containing approximately 385 acres, more or less.

According to the survey plat accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on October 20, 1971.

Township 2 South, Range 4 West, Fairbanks Meridian

Portions of Tract A within Protracted Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23 and 24.

Containing approximately 7,032.32 acres, more or less.

According to the survey plat accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on October 20, 1971.

Aggregating 12,329.80 acres, more or less.

Borough/Municipality: Fairbanks North Star Borough, though no borough lands are impacted.

Regional/Village Corp: Doyon, LLC., though no corporation lands are impacted.

**Title**

The State has received title to all lands encompassed by the lease:

Patent 1232753, dated July 30, 1963, conveyed the following lands within Township 2 South, Range 3 West, Fairbanks Meridian: Section 20, Lots 1 thru 6, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Section 21, Lots 1 thru 5, N $\frac{1}{2}$ NW $\frac{1}{4}$ ; Section 28, Lots 3 thru 5, S $\frac{1}{2}$ NW $\frac{1}{4}$ ; Section 29, Lots 1 thru 6, 9, 10, & 11; Section 30, Lot 9; Section 31, Lots 1, 5, 6, 8, & 9, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; and Section 32, Lots 2 thru 5, 8, & 9.

Patent 50-73-0019, dated July 28, 1972, conveyed Tract C within Township 2 South, Range 3 West, Fairbanks Meridian.

Lands under both patents are subject to standard stipulations regarding a right-of-way for ditches and canals, and a right-of-way for the construction of railroads, telegraph, and telephone lines.

Patent 50-73-0010, dated July 27, 1972, conveyed Tract A, which encompasses all of Sections 1 thru 3, 10 thru 15, and 23 and 24, within Township 2 South, Range 4 West, Fairbanks Meridian. This conveyance excepts and reserves a right-of-way for material sites F026084 (within lease boundary) and F025769, and standard stipulations for ditches and canals, and the construction of railroads, telegraph and telephone lines.

**Other Authorizations and Pending Interests**

The Parks Highway, FAP Route 37 of the Omnibus Deed, crosses the northern boundary of lease area, within Sections 1 – 3, 10, and 11 of Township 2 South, Range 4 West, Fairbanks Meridian.

At approximately mile post 238 of the Parks Highway is a designated material site ADL 419453, Department of Transportation & Public Facilities (DOT&PF) site MS 37-1-021-2. This site was granted an indefinite right-of-way at conveyance to the state (F026084), and has no active contracts. DOT&PF was included in agency review. See agency review section below.

Additional authorizations within the lease boundaries of Township 2 South, Range 4 West, Fairbanks Meridian include: a public utility easement, ADL 29238, issued to Golden Valley Electric Association Inc.; a public easement right-of-way, ADL 60056, for the Parks Highway realignment; and a private easement, ADL 420833, to Matanuska Telephone Association Inc. for placement of an above ground fiber optic line on existing power poles. All additional authorizations are along the Parks Highway corridor and do not conflict with the re-issuance of this lease.

### **Access Along Navigable and Public Waters**

The southern lease boundary includes shorelands and islands within the Tanana River, a navigable river. Pursuant to AS 38.05.127 and 11 AAC 51.045, public access easements 50 feet wide are reserved to and along all navigable water bodies that border this lease to preserve public access to the river. Further, the Public Trust Doctrine guarantees public access to, and the public right to use, navigable and public waters and the land beneath them for navigation, commerce, fishing, and other purposes. This lease is subject to the principles of the Public Trust Doctrine.

### **Planning and Classification**

The land of interest is part of the Tanana Valley State Forest (AS 41.17.400) and managed according to the TVSFMP, adopted in 2001 under the authority of AS 41.17.230. The BCEF is specifically recognized within this plan as Unit 5B for the express purpose of protecting research activities and maintaining its value for manipulative and observational research. Timber management is primarily for enhancing research values, with secondary goals of salvage and preventing the spread of insects and disease.

The BCEF is also included in the Eastern Tanana Area Plan as Unit L-1, but defers management intent to the TVSFMP. As the BCEF is explicitly recognized within the TVSFMP, the renewal of the BCEF lease is consistent with management intent.

The land encompassed by the lease is closed to mineral entry under Mineral Order (MO) 1045: Lands to be conveyed to the University of Alaska. Mineral Order 1118 reopened mineral entry to many of the lands closed under MO 1045, except those that are part of the experimental forest conveyed as the “University Research Forest” under AS 14.40.365(b), which includes this lease. Additionally, Leasehold Location Order (LLO) 24, which was issued as part of the TVSFMP, includes lands encompassed by this lease.

### **Environmental Risk**

The lease is for a large area of forest for the purposes of conducting research on ecology and timber management, and the use of any hazardous materials (fuel, batteries, hydraulic fluid) would be limited to the equipment necessary to conduct research. As such, environmental risk is expected to be low.

### **Performance Guaranty and Insurance**

Consistent with AS 38.05.035, the State may waive bonding and insurance. Given the low environmental risk of research activities, that the management of the forest will be overseen by the applicant in cooperation with the University of Alaska, and that the applicant is a federal agency (U.S. Forest Service), it is recommended that the performance guaranty and insurance be waived.

### **Applicant Compliance**

The applicant has complied with all terms of the lease and is in good standing.

## **Authorization and Term Length**

Pursuant to AS 38.05.070(e) leases may only be renewed once and for a duration not longer than the original lease term. As such, this renewal may be issued for up to 55 years. While as a practice DNR does not typically issue leases for 55-year terms, because of the importance of maintaining the experimental forest a 55-year term is considered appropriate in this case. The lands encompassed by the lease are scheduled for conveyance June 30, 2055 (36 years from now). The lease will terminate at the time of conveyance. The renewed lease will be issued under the original authority AS 38.05.810(a) and the renewal authority AS 38.05.070(e).

## **Qualifications for Renewal Lease**

To qualify for a lease renewal, a lessee must be in “good standing,” per AS 38.05.070(e). Good standing refers to the fact that the lessee’s accounts are current, that there are no outstanding compliance issues, and that the lessee maintains a healthy business relationship with the lessor. A review of the casefile has shown that the lessee is in good standing.

## **Annual Fee**

The original lease and amendments did not establish or discuss fees or an appraisal for the BCEF.

Under AS 38.05.810(a), a lease for state land may be issued to a federal agency for less than the fair market appraised value if it is determined to be fair and proper and in the best interests of the public with due consideration given to the nature of the public services or function rendered by the applicant. In adjudicating this lease renewal, DNR must ensure that the lease serves a public purpose and is in the best interest of the public and the State.

The experimental forest currently conducts valuable research involving timber resources and fire management. These topics are important to the State as they directly address economic resources, and public health and safety. The BCEF research toward increasing harvest and forest recovery efficiency in a variety of the forest types and ecological communities unique to interior Alaska provides an economic advantage to the State and local timber industries through maximized resource extraction. Continuing research into the ecological effects and frequency of fire within different vegetation communities provides a direct benefit to public health and safety in improved fire response and management. As the lease delegates the responsibility of managing the experimental forest to the U.S. Forest Service (in cooperation with the University of Alaska) until conveyance to the University, the State is relieved of the responsibility of managing an experimental forest, while benefiting from peer-reviewed, applied forest research. Adjudicating a renewal will also further the original purpose of the lease, and provide continuity to the research mission.

In addition, given the sheer size of the lease area, a fee based on acreage or other metric would result in a high monetary value. Given that funding is often a limiting factor for federal agencies and research institutions, charging a fee may render the lease infeasible to the lessee.

Given the direct benefits of the BCEF to the State and public health and safety, the history of land use as an experimental forest, the management intent for the area, and state law that provides for the future conveyance of the area for purposes of an experimental forest, a lease at less than fair market value (no charge) is appropriate.

## **Survey and Appraisal**

The original lease and amendments did not address or require a survey or appraisal for the BCEF.

Given the size of the lease area, that the boundaries are appropriately described by the MTRS system and surveyed parcels identified in the Master Title Plats, and that the lease area will be conveyed as part of the larger University Research Forest, a survey for the lease renewal would be cost prohibitive and unnecessary.

Because the lands encompassed by the lease will be legislatively conveyed to the University in the future, and no rent will be charged based on the justification in the previous section, an appraisal is unnecessary to adjudicate this renewal.

## **Agency Comments**

The DMLW conducted agency review from June 14 to July 14, 2017. The following agencies were solicited for comments regarding this proposed lease renewal.

Department of Fish & Game (ADF&G), Habitat Division, Audra Brase  
ADF&G, Habitat Division, Jim Durst  
ADF&G, Access Defense (Wildlife Conservation), Mark Fink  
ADF&G, Access Defense (Wildlife Conservation), Marla Carter  
DNR, DMLW, Land Sales, Tim Shilling  
DNR, DMLW, Permits & Easements, AJ Wait  
DNR, DMLW, Permits & Easements, Bruce Sackinger  
DNR, DMLW, Placer Mining, Leo Jack Kerin  
DNR, DMLW, Mineral Property Management, Mitch Henning  
DNR, DMLW, Title Section, Boyd, Jorgensen  
DNR, DMLW, Resource Assessment & Development Section, Monica Alvarez  
DNR, DMLW, Resource Assessment & Development Section, Mark Henspeter  
DNR, DMLW, Public Access Assertion & Defense, James Walker  
DNR, Division of Forestry (DoF), Fairbanks Area, Paul Keech  
DNR, DoF, Regional Forestry, Tim Dabney  
DNR, DoF, Division Director, Chris Maisch  
DOT&PF, Right-of-Way, Heather Fair  
DOT&PF, Right-of-Way, Martin Shurr  
DOT&PF, Right-of-Way, Kahlil Wilson  
U.S. Fish & Wildlife Service, Bob Henszey  
U.S. Forest Service, Darlene Rilators  
U.S. Forest Service, Jeffery Wuethrich  
U.S. Forest Service, Paul Anderson  
U.S. Forest Service, Borys Tkacz  
U.S. Forest Service, Teresa Hollingsworth

The following comments were received:

Marla Carter, ADF&G Access Defense: ADF&G has no objection to the issuance of this lease.

Victoria Steger, DNR DMLW Reality Services Section: A title report is recommended to catch any interests that may have arisen in the lease area.

*DNR Response: A title report for the lease area was requested and received. No new interests in the area were noted, and land status matches research conducted during adjudication.*

Heather Fair, DOT Right-of-way: DOT&PF Regional Right-of-Way and Maintenance & Operations groups have no comments.

James Schwarber, DNR Division of Forestry (DoF): Several key points were outlined.

1. Management as specified in the Tanana Valley State Forest Management Plan (TVSFMP) Unit 5B should be adopted by reference into the new lease language.

*DNR Response: The TVSFMP was reviewed and is consistent with the intent of lease and management of the experimental forest. The TVSFMP will be included in the new lease language.*

2. The Citizens Advisory Committee (CAC) advises the DoF on management issues within the State Forest. The DoF has requested that the CAC be given the opportunity to comment on the lease renewal.

*DNR Response: The CAC will be included on the public notice distribution list once the lease renewal decision has been completed. Any comments submitted will be considered with other public comments.*

3. DoF requests that CAC receive annual reports on the research activities within the BCEF.

*DNR Response: Upon further clarification with DoF, the above request was modified to an as-requested basis. Reports are produced annually as a funding requirement of the National Science Foundation and the U.S. Forest Service. These reports can be furnished to the CAC on request.*

4. Finally, the DoF mentions updating fire management and protection services within the BCEF.

*DNR Response: Stipulation 5 of the original lease document specifically addresses fire management of the BCEF. Currently, fire management within the BCEF is handled by the State according to the Alaska Interagency Coordination Center's Master Agreement (<https://fire.ak.blm.gov/administration/asma.php>), and the current Alaska Interagency Wildland Fire Management Plan (as of this decision, 2018 version). Should a different fire management agreement be deemed necessary, coordination between the DoF, Forest Service, and the University of Alaska should be held separately from the lease renewal process.*

## **Public Review**

Pursuant to AS 38.05.070(e), the department shall provide public notice of the renewal decision. This decision will be posted on the Alaska Online Public Notice System for 30 days, and the notice will be provided to the Forestry Citizens Advisory Council.

## **Discussion**

The research importance and benefit of the BCEF has been recognized by the State in statute and resource management plans, establishing the commitment of the State to maintaining a forest for research purposes. From a memo justifying the experiment forest dated January 17, 1963, there was an intention to establish an experimental forest managed by the U.S. Forest Service on lands withdrawn from selection by the Bureau

of the Land Management. Recognizing that the research conducted into ecology and forestry management practices of a forest unique to interior Alaska would provide benefit to both the public and the State, the State requested cancellation of this withdrawal in favor of opening land to state selection and establishing a cooperative agreement with the U.S. Forest Service. The purpose of this agreement was to give the State a greater voice in the programming of research to the benefit of the forestry management program. This ultimately led to the establishment of the BCEF, using a lease as the instrument of coordination between the State and the U.S. Forest Service. The renewal of the lease carries on this intention.

The renewal of the lease will also preserve the ongoing utility and integrity of the research and forest management conducted within the BCEF until conveyance to the University of Alaska on July 2055 under AS 14.40.365(b). By this legislative act, the State recognized the core research and educational function of the BCEF by establishing its “purpose for advancing research into forest practices, ecology, wildlife management, and recreation...” in statute AS 14.40.461(a), to be perpetuated by the University of Alaska system in the future. The lease renewal provides an instrument for consistent management in the hands of an agency with the expertise to conduct and oversee research in cooperation with the University, consistent with the original intent the BCEF establishment, and to the benefit of the public and the State.

The original lease was issued in 1963. The renewed lease will incorporate many current lease terms to protect the State’s best interests and comply with updated state laws and standard lease stipulations. It will be more comprehensive than the amended 1963 lease.

The Division of Forestry will retain management of the timber resources, authorizing the sale and salvage of any trees harvested for research purposes. This invites continuing collaboration between the University, Division of Forestry and U.S. Forest Service to the benefit of the public and the State.

The BCEF is open to public access for the use of trails, roads, campsites and boat launches. Access is primarily by the Parks Highway, but trails may be accessed by Rosie Creek on the west site of Fairbanks. The renewal of the lease maintains current access by the public under the management of the lessee, with no additional restrictions, until conveyance to the University.

## **Recommendation**

DMLW has completed a review of the case file, management plans and statutes related to the BCEF and lease renewals. The decision considers the purpose of the BCEF both as originally intended, and as managed in the future upon conveyance to the University of Alaska. The renewal of this lease will maintain consistent management of the experimental forest for research purposes, contributes to economic resource development, public health and safety, and delegates management of the forest to the lessee without negatively affecting the State or the public. It is therefore in the best interest of the public and the State to renew this lease at less than fair market value, with current language and up-to-date stipulations.

It is recommended that DNR, DMLW issue a 55-year public and charitable lease renewal to the U.S. Forest Service, Pacific Northwest Research Station at less than fair market value (no annual rental), with updated language and stipulations.




**Prepared by:**

  
Adam Leland  
Natural Resource Specialist

5/31/2018  
Date


**Concurrence**

  
Jeanne Proulx  
Northern Regional Manager

5/31/18  
Date

**Decision**

The findings presented above have been reviewed and considered. The case file has been found to be complete and the requirements of all applicable statutes have been satisfied. I find that it is in the best interests of the State to proceed with this renewed 55-year lease under the authority of AS 38.05.810(a) and AS 38.05.070(e).

  
Brent Goodrum  
Director Division of Mining, Land and Water

5/31/2018  
Date

**Appeal**

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal 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 the 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](mailto:dnr.appeals@alaska.gov). If no appeal is filed by that date, this decision goes into effect as a final order and decision on the 31<sup>st</sup> calendar day after issuance. An eligible person must first appeal 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.

**Attachments**

Map of Lease Location  
Lease Document  
Additional Stipulations