

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
STATE PIPELINE COORDINATOR'S OFFICE
PRELIMINARY DECISION**

**DESIGNATION OF MATERIAL SITES
UNDER AS 38.05.550(b)**

Proposed Action: The Alaska Department of Natural Resources (ADNR), State Pipeline Coordinator's Office (SPCO) proposes to establish 31 existing material sale locations as Designated Material Sites under AS 38.05.550(b). The Designated Material Sites will be for continuous sale and extraction of materials, as defined under AS 38.05.965(10). Upon designation, ADNR SPCO may sell materials continuously, without further finding or notice, from these designated sites. The sites are located on state land along or near the Dalton, Elliott, and Richardson Highways and the Trans-Alaska Pipeline System (TAPS), from Valdez to Deadhorse. Appendix A of this decision identifies each site and Appendix B depicts the location geographically.

Authority: The applicable authorities for this decision include, but are not limited to:

AS 38.05.020 Authority and duties of the commissioner	11 AAC 55 Classification
AS 38.05.035 Powers and duties of the director	11 AAC 58 Leasing of Land
AS 38.05.550 Disposal of materials	11 AAC 71 Timber and material sale
AS 38.05.945 Notice	AS 27.19.030-.050 Reclamation Plan
AS 38.35.015 Powers of the commissioner	
AS 38.35.020 Grant of right-of-way lease	

The Commissioner of Natural Resources has delegated to the State Pipeline Coordinator the authority to designate material sites and sell material "when pipeline right-of-way leases under AS 38.35 are involved". Each of the referenced material sites has been used to support AS 38.35 pipeline related activities. Each of these sites is being designated at this time because of anticipated continued need for materials to support AS 38.35 pipeline related activities. All materials sales made pursuant to this designation will be made by the SPCO. If ANDR determines that materials should be sold for purposes other than support of pipelines using AS 38.35 rights-of-way, ADNR will conduct a separate review and material site designation.

Background: CHAPTER 27 SLA 12 was signed into law on May 22, 2012 and became effective July 1, 2012. This act substantially changed the process ADNR must follow when selling materials from state land. AS.38.05 was amended by adding new sections under "Article 13A. Material Sales."¹

One new paragraph, AS 38.05.550(b), requires ADNR to designate sources or sites for the sale and extraction of materials by issuing a decision under AS 38.035(e) and providing notice in

¹ The previous version of this statute intertwined the rules of material sales and timber sales, which led to misinterpretations because many of the sections had been specific to either timber or materials sales, but not both.

accordance with AS 38.05.945. Once designated, these sites will remain open for material sales indefinitely or until closed by the ADNR. No additional public notice is required for sales from designated sites. Materials sales from these sites will be negotiated or competitive sales conducted to meet the requirements of AS 38.05.555-565.

Scope of the Decision: The scope of this preliminary decision is to designate the sites identified in Appendix A as material sales sites. This designation will allow the SPCO to sell materials from these sites to support AS 38.35 pipeline related activities. All of the sites designated in this decision have been used in the past as materials sites to support AS 38.35 pipeline related activity. The majority of these sites have been used since TAPS construction.

Of the 31 sites discussed in this decision, 12 are also used by the Alaska Department of Transportation & Public Facilities (ADOTPF). Four of the shared sites are located in the Southcentral Region and the remaining eight are in the Northern Region. Material sale contracts for ADOTPF are issued by the respective regional offices of ADNR's Division of Mining Land & Water (DMLW). The regional offices will be addressing the designation of these shared sites for purposes other than pipeline-related actions in a separate decision.

Administrative Record: The administrative record for this decision includes existing AS 38.35 Right-of-Way Leases, ADL's 415932, 415701, 415857, 415472, 415965, 410562, 228162, 402294, 409027, 410221, 416172, 69354, 415975, 415700, 416202, 411731, 63574, and 230928, and the material sale contract files detailed in the individual OMS Site Data Sheets in Appendix C. The administrative record also includes documentation of review by the ADNR Office of History and Archeology (OHA)/State Historic Preservation Office (SHPO). Copies of the right-of-way leases and the material sale contract files, including the OHA/SHPO review, are available upon request from the SPCO.

The Data Sheets contain the location and legal description, title, planning and classification information, size, material type, current and expired material sale contracts, date of most recent mining and reclamation plan, OHA/SHPO review, and access information for each material site. Each Material Site Data Sheet is accompanied by one or more aerial photos depicting the boundary of the site being designated by this decision.

Public Review: Public notice of this Preliminary Decision will appear on the Alaska Online Public Notice system for 30 consecutive days as well as in the Anchorage Daily News, the Fairbanks Daily News Miner Arctic Sounder, Delta Wind, and Valdez Star newspapers. It will also be posted in the Post Offices located in Coldfoot, Delta Junction, Fairbanks Downtown, Glennallen, North Pole, Prudhoe Bay, and Valdez. It will also be posted in public libraries located in Delta Junction, Fairbanks, Glennallen, North Pole, and Valdez.

Any comment, objection, or expression of interest pertaining to this preliminary decision must be received in writing by the State Pipeline Coordinator's Office or before 5:00 P.M., September 7, 2012 in order to ensure consideration. If public comment indicates the need for

significant changes in the preliminary decision, additional public notice will be given on or after September 14, 2012. If no significant change is required, this Preliminary Decision, including any minor changes, will be issued as the Final Finding and Decision of the ADNR, SPCO after September 10, 2012, without further notice. To be eligible to appeal the Final Finding and Decision, a person must provide written comments to the SPCO during the comment period for this Preliminary Decision. The Final Decision will be sent to any person who comments on this Preliminary Decision and will explain the appeal process. The Final Decision will also be available at the State Pipeline Coordinator's Office and on the SPCO website at <http://dnr.alaska.gov/commis/pco/>.

Discussion: The majority of these material sites have been used for more than 35 years to support the operations and maintenance of TAPS. Continued safe operation of existing pipelines, as well necessary modifications to existing pipelines or construction and safe operation of new pipelines requires access to materials available from the designated sites. All of these sites have been in intermittent or continuous use as material sites for pipeline-related activities and existing infrastructure and the accessibility of these sites means they can be used advantageously compared to other potential sources of necessary materials.

Past and anticipated future use of materials from these sites has been governed by pipeline right-of-way leases on file with the SPCO and these sites are inspected regularly by SPCO staff. The inspections have shown that these sites have been maintained in clean and orderly condition and have been used in compliance with relevant leases and materials sales contracts. Due to the limited nature of this designation, any material sales from these sites will be made by the SPCO and will be subject to comparable right-of-way lease requirements or stipulations. If ADNR determines that it is appropriate to sell materials from these sites for other purposes, a separate review and site designation will be made.

All of the proposed designated material sites have been reviewed by OHA/SHPO and no historic properties were affected within the working limits of the sites. The working limits comprise the active mining areas and working slopes as well as the floors of the pits.² Any material sale made pursuant to this designation is subject to the express condition that expansion of the currently approved working limits must be reviewed and approved by OHA/SHPO.

No additional public notice will be issued if the expanded working limits are within the boundaries of these designated sites. If a request is made to expand working limits beyond the boundaries of the sites as depicted in this decision, ADNR will conduct additional review and issue a separate decision under AS 38.05.550(b), including public notice under AS 38.05.945.

Use of the designated areas as materials sites is consistent with existing land use plans. Should a local land use or planning issue arise with the use or operation of one or more of these

²To distinguish, this decision is delineating the legal limits of each proposed designated material site. Appendix C of this decision contains maps of each proposed designated material site and depicts both the legal limits and current working limits.

designated material sites, the SPCO will work with affected bodies to develop specific stipulations or conditions for operation within the site to mitigate the concern or conflict where feasible.

Each of the designated sites has previously been used for the sale and extraction of materials. Prior to the initial use of the designated sites most were evaluated for topography, soils, water, minerals, materials, improvements/facilities, access, vegetation, wildlife, fisheries, and mining. The SPCO also requires the pipeline operator to maintain a current mining and reclamation plan for each site. These plans address: location and access; site description; excavation methods; clearing, waste and overburden material; site hydrology; impact on non-mineral resources (including public safety, aesthetics, antiquities and historical sites, big game movements and wildlife protection and fisheries protection); special authorizations (specific pipeline right-of-way lease stipulations that might apply to a specific material site such as proximity to a highway); and reclamation. In addition, with the exception of OMS 72-0, sales from each of these sites have been put out to public notice; and comments, if any, relating to the suitability of these sites for material extraction have been reviewed and are part of the material sales contract files included in the administrative record. The SPCO is aware of no superior conflicting uses of the designated sites.

As existing sources for the sale and extraction of material, these sites all have established physical and legal access. If additional or alternate access is required for future operations on these sites, the SPCO will conduct additional review to determine whether required access creates a material impact on this designation.

Designating these sites is required by the new statutes in order to sell materials in the future. If the sites are not designated, SPCO will be unable to sell material to the operators of AS 38.35 pipelines, which would have a severe and negative impact on the ability to operate and maintain common carrier pipelines and related facilities in a safe manner.

Recommendation and Preliminary Decision: The Preliminary Decision described above has been reviewed and considered. Designating these 31 material sites allows the SPCO to comply with the new state law and is consistent with the overall management intent for state-owned land. The potential changes to resources and the public interest as a result of designating these sites are minimal and acceptable.

It is the finding of the State Pipeline Coordinator that it is in the best interest of the State of Alaska to establish these 31 sites as Designated Material Sites under AS 38.05.550(b).

This is a preliminary decision and subsequent public review may result in changes to the proposed action. If no significant changes are required, this Preliminary Decision, including any minor changes, will be issued as the Final Finding and Decision after the public notice period ends.



Frederick M. Thompson
State Pipeline Coordinator

8-6-12

Date

- Attachments:
1. Appendix A – Table of SPCO Designated Material Sites (2 pages)
 2. Appendix B – Map of SPCO Designated Material Sites (1 page)
 3. Appendix C – 31 Material Site Data Sheets with accompanying photos (91 pages)