

BRIEFING PAPER

Response to HRES Amendments on HB 98

April 2021

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FORESTRY

HB 98 provides for and protects timber jobs, especially endangered jobs in Southeast Alaska.

In addition to providing a stable, predictable supply of wood to Alaska's timber industry, HB 98 intends to help the struggling timber industry in SE Alaska survive until young growth timber in the Tongass National Forest becomes economically harvestable in about 2030. Timber sales in SE Alaska administered by Division of Forestry (DOF) provide five times more revenue and related employment opportunity than the rest of the state combined, and help subsidize Alaska's timber industry by funding DOF positions statewide. The U.S. Forest Service is not providing adequate timber to keep the remaining forestry businesses alive in SE, so DOF has provided the sustainable acreage possible on state land, complying with the environmental protections of the Alaska Forest Resources and Practices Act and taking into account public and agency concerns. Southeast Alaska supports only 325 timber industry jobs today, compared to 4,000 jobs in the 1990s, and now, even these jobs are in danger. By passing HB 98, the Legislature will help protect the remaining forestry jobs that still exist in SE Alaska.

However, we believe the following amendments proposed by the House Resources Committee (HRES) will make it **more difficult** for the SE Alaska timber industry to survive, because it will create less flexibility for local businesses, and constrain them further.

Negotiated sales: Amendment #7 (A.16) Fields

With Amendment #7, Rep. Fields has requested that the "local manufacturer" be preserved in AS 38.05.118. This amendment is unnecessary due to the "Request for Proposals" (RFP) process that DOF uses when it negotiates a timber sale.

Just as HRES members do, past and present administrations have desired that timber sales are sold to Alaskan companies, to support local jobs and industries. **If DOF offered SE Alaska timber sales competitively to all purchasers, local industry could not offer the same high price as out of state companies, and our SE Alaska industry would disappear, along with the jobs it supports.** So DOF developed an RFP process of selling negotiated sales that analyzes each prospective purchaser's capacity to provide local jobs and manufacturing abilities.

For illustration, see the attached Request for Proposal from the Bayview Sale, which states:

The intent of this sale is to supply timber to a mill operator doing business within the State of Alaska... The RFP process is designed to provide a fair method to determine which qualifying business would potentially provide the most benefit to the State and local communities by harvesting and processing a given timber sale offered by the State of Alaska.

The RFP process allows DOF to evaluate a purchaser not just on the price they are willing to pay for the timber, but also on their ability to provide local employment.

Local hire and local businesses: Amendment #8, #9 (A.15, A.14) Fields

Both the administration and DOF agree with the HRES members' focus on providing the most opportunities for Alaskan workers. In addition to the RFP process, local markets and benefits to the local economy must be considered in HB 98's list of considerations for offering negotiated sales in AS 38.05.110(c). In addition, the existing AS 38.05.123 negotiated timber sale authority is only for local manufacturers, so there is no need to add extra provisions for local hire and local businesses. These amendments also raise potential legal issues. Limiting a business's ability to hire **only** local workers, though, may not allow the industry to hire the best workers for their immediate needs; if an operator needs to hire someone from Outside who is trained for a specific task, their inability to do so could put the whole company at risk.

Allowing local businesses to export timber: Amendment #6 (A.17) Fields

Currently, AS 38.05.118 gives DOF the authority to negotiate the sale of timber to a local manufacturer of wood products. It does not clearly state, though, that the local business may export the timber after its many local workers do their jobs to build roads to access the timber, cut the timber, and transport it. The issue is that **no local market or mill**

exists for some of the timber that is harvested. Local mills are not equipped to process young growth, there is a lack of local demand for wood products from small logs, and the only market for hemlock is overseas and the Pacific Northwest. HB 98's change to .118 gives local industry the ability to sell to an exporter timber that can't be manufactured or sold locally, ensuring more jobs for local Alaskans.

Appeals and Forest Land Use Plans (FLUPs): Amendment #7 (A.16) Fields, Amendment #4 (A.19) Hopkins
Amendment #7 removes Section 3 of HB 98, which creates confusion as to what constitutes a timber sale that does not require a FLUP (10 or 20 acres). It also includes a provision that a FLUP is required for timber sales less than or equal to 20 acres outside of SE Alaska, even very small sales for house logs or firewood. This provision would make administration of small timber sales extremely onerous and time-consuming, limiting the ability of local small businesses and individuals to acquire the logs they need for personal use or small commercial operations.

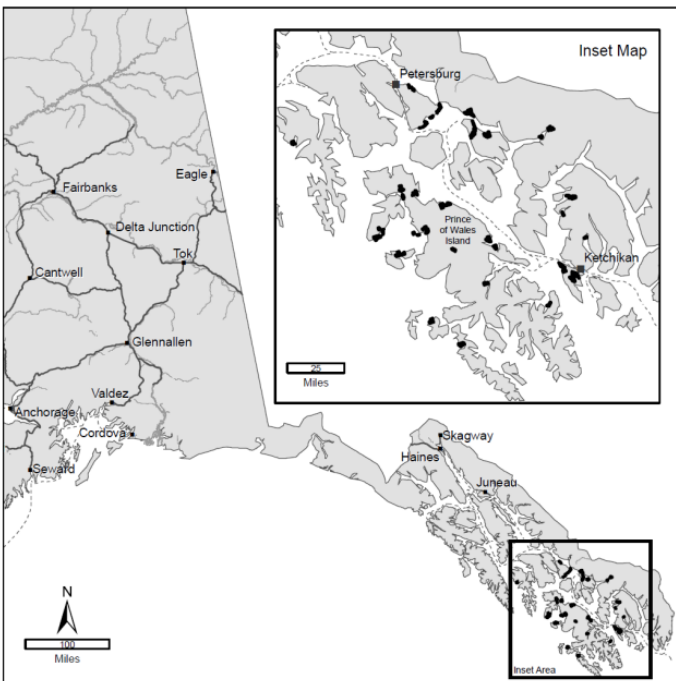
Amendment #7's change to AS 38.05.112 means that appeals on FLUPs are only allowed for SE Alaska, which unfairly hinders the struggling industry in SE Alaska that HB 98 is attempting to assist.

While we appreciate that Amendment #4 is meant to allow only one chance at an appeal on a timber sale, it does not help with the problem of appeals of FLUPs on timber sales sold under a Best Interest Finding (BIF). **Appeals on subsequent FLUPs hold up timber production and can have serious economic impacts on a timber company, including loss of jobs.**

State timber economics: Amendment #7 (A.16) Fields

Amendment #7 would also prevent the Division of Forestry from negotiating timber sales in SE Alaska. While there are several legal concerns with this amendment, it would also yield significant economic consequences. The Division of Forestry currently has \$5.15 million of timber sales under contract. Interior Alaska's timber sales total \$850,000, while SE Alaska's total \$4.3 million. Currently, DOF's negotiated SE timber sales go to local industries that provide jobs for local people, and under AS 38.05.110(b), subject to appropriation, 25% of the timber receipts shall be provided to Division of Forestry offices in that community to fund forestry jobs, so DOF can continue to provide timber for a variety of uses: from small firewood and house log sales, to large sales for manufacturing dimensional lumber and other value-added products.

The remainder of SE Alaska's timber sale receipts help support the rest of the state's timber sale activities. **By unfairly restricting SE Alaska timber sales, Amendment #7 would not only cripple the SE Alaska timber industry, but would also dramatically reduce the funding that allows DOF to provide timber sales statewide.**



Vicinity Map of Southeast State Forest

Foreign industry (e.g., Chinese colonialism)

In SE Alaska, state timber sales are too small and the available land base too scattered to interest the foreign industry. The Southeast State Forest represents only 0.04% of the SE Alaska land base; consisting of 32 forest units ranging from 314 to 5,101 acres in size, for a total of only 46,952 acres. (See map, at left.) The forest units are widely scattered among 11 islands located between Petersburg and Ketchikan and include two mainland units by Wrangell.

In Interior Alaska, the timber industry has never used a railroad to move logs to saltwater; it would not make economic sense to transport timber such a long distance. Phytosanitary inspections at the Canadian border would also make the timber difficult to transport by rail.



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources

Division of Forestry

SOUTHEAST AREA OFFICE
2417 Tongass Avenue, Suite 213
Ketchikan, AK 99901
Main: 907.225-3070

November 25, 2020

To: Sawmill Operators

RE: REQUEST FOR PROPOSALS
FOR PURCHASE OF THE BAY VIEW TIMBER SALE (SSE-1369-K)

Dear Mill Owners:

Under the authority of AS 38.05.118, the Division of Forestry (DOF) is soliciting Requests for Proposals (RFPs) from qualifying businesses interested in negotiating the purchase of one (1) timber sale composed of three units in the Thorne Bay Area located on Prince of Wales Island. The intent of this sale is to supply timber to a mill operator doing business within the State of Alaska. The Division of Forestry will require the sale's saw log volume to be manufactured in the State of Alaska and to produce as much "value-added" and "high value added" product as possible. Limited export of round saw log timber will be considered *if identified in the initial proposal*. Round log export shall be a minor component of the sale. The successful proposer will be allowed, and is encouraged, to sell logs that their company does not have the markets or capabilities to manufacture to other local mills for in-state manufacture. The use and manufacture of utility volume is optional, based on the purchaser's needs. A log accountability plan will be used to track all timber harvested. The purchaser will provide the Division of Forestry with certification of scale volume by species and log grade as determined by an independent third party scaling bureau, regardless of domestic or export market, unless other methods are agreed to in writing.

The RFP process is designed to provide a fair method to determine which qualifying business would potentially provide the most benefit to the State and local communities by harvesting and processing a given timber sale offered by the State of Alaska. This process is used due to the high level of interest in and high demand for state timber sales. The capabilities represented by the proposer are expected to be in good faith and factual. The Division of Forestry will consider any RFP non-responsive that fails to provide the required information or indicates that submitted performance would be improbable. Should a purchase agreement not be reached between the two parties within ten business days of the selection of the highest scoring proposer, the Division of Forestry will select the next highest scoring proposer for negotiations.

Sale Description:

The Division of Forestry is offering one timber sale for negotiated purchase, the Bay View Timber Sale, administratively referred to as SSE 1369-K (Units 1, 2 and 3). This timber sale is located on Prince of Wales Island, centered approximately one mile east of the City of Thorne Bay. The sale area consists of approximately 574 acres of timber in three units. The legal description of the sale area is within Sections 14, 15, 22, 23, 25, 26, 27, 34, and 35, Township 71 South, Range 84 East, Copper River Meridian. The sale area is located on the Craig C-2 USGS quadrangle. The main

access for this sale area is from the existing Prince of Wales Road System, specifically from the Sandy Beach Road and spur Road 3000150. All sale boundaries are flagged with pink “Timber Harvest Boundary” ribbon.

SSE 1369-K has an estimated saw log volume of 14,417 Thousand Board Feet (MBF) on approximately 574 acres.

Acres	Red Cedar (MBF)	Western Hemlock (MBF)	Yellow Cedar (MBF)	Sitka Spruce (MBF)	Spruce Young Growth (MBF)	Hemlock Young Growth (MBF)	Utility/ Pulp	Total Sawlog (MBF)
574	7,886	3,336	375	2,722	61	37	1,085	14,417

The State’s appraised value is an estimate of the sale’s fair market value, and is not intended to be the minimum bid. DOF reserves the right to set a minimum acceptable stumpage price. The State appraised value for this sale is \$700,000.00.

Minimum Mill Experience Required

In order for your proposal to be considered responsive, a proposer must be able to demonstrate the following minimum experience and qualifications:

- The proposer is a resident of Alaska and is licensed to do business in the State of Alaska;
- The proposer owns a functioning sawmill in the State of Alaska that has the proven capability to process and manufacture at least value-added wood products.

The DOF will only give consideration to potential purchasers that will manufacture a major percentage of the sale volume, at a minimum, into value-added or high value-added wood products.

As defined in AS 38.05.123(j) (2) or determined by the commissioner, value-added wood products are:

- Round house logs
- chips
- green lumber
- flitches, cants or rough planks
- Radius edged decking or siding

As defined in AS 38.05.123(j) (1) and 11 AAC 71.096, a high value-added wood product includes:

Interior finish paneling, trim molding, flooring, doors, windows, cabinet stock, furniture, musical instruments or parts of instruments, toys, tools and implements, ready-to-assemble building kits, veneer, plywood, finger-jointed lumber, faced house logs, dissolving pulp, engineered wood products, paneled wood products, kiln-dried lumber, laminated veneer lumber, shakes, shingles and other similar finished wood products as determined by the commissioner to have received processing beyond sawing and planning that adds high value to the wood product.

Outline of Agreement Terms and Conditions

1. The Purchaser's operations on the timber sale must at all times comply with the Best Management Practices as outlined in the Alaska Forest Practices Act and Regulations for public lands, the Best Interest Finding (BIF), and the adopted Forest Land Use Plan (FLUP) for the timber sale.
 - a. The BIF for the sale may be viewed at: <http://notice.alaska.gov/198138>
 - b. The FLUP may be viewed at: <http://notice.alaska.gov/199884>
2. Liability requirements are outlined in the sample contract; the purchaser shall defend, indemnify, and hold harmless the State of Alaska according to the contract outline.
3. The potential purchaser will have the ability to adequately bond for the successful performance of the timber sale. The successful proposer will be required to post a minimum performance bond in the form of cash, certificate of deposit or surety bond in the amount of eighty thousand dollars (\$80,000.00) with the State for purchase of the timber sale at the time of signing the contract.
4. The purchaser shall make an Initial Stumpage Deposit payment totaling 10% of the estimated total stumpage to the State at the execution of the contract. The potential purchaser must pay for timber in advance of falling operations (other than what is necessary for construction of the road) in the sale area in an amount related to the monthly harvest schedule proposed in the operating plan. The purchaser's Initial Stumpage Deposit from the RFP process will be applied to the contract Stumpage Deposit. No interest shall be due from the State on Advance Stumpage Deposits.
5. The term of the contract is five years.
6. Purchaser road construction and management:
 - a. The reconstruction of portions of State Forest Road 3000150 as described in FLUP Table 6A-1. Purchaser supplies one new 30-foot bridge meeting DOF Bridge Standards;
 - b. New road construction:
 - i. 1.6 miles of DOF Primary Road (with site specific grade allowances of less than 12%);

- ii. 3.8 miles of DOF Secondary Road (with site specific grade allowances of less than 12%);
 - iii. 2.63 miles of DOF Spur Road;
- c. Construct either:
 - i. The 3000140 Access Alternative. This alternative connects the new 3000160 Road to the new 300150 Road by upgrading the existing 30000140 Road as described in the FLUP Table 6A-2, or
 - ii. The 3000150 Bridge Access Option. This alternative connects Unit 2 and Unit 1 with the construction of Road 3000150 Segment 11 described in FLUP Table 6B and Table 7. Purchaser supplies a new modular bridge to the State meeting DOF Bridge Standards.
- d. Maintenance of new and existing road to 11 AAC 95.315 on State lands used for access;
- e. The closure at the end of the contract or other mutually agreed to timeframe of 3.36 miles of State forest road within the timber sale area to 11 AAC 95.320.
- f. Maintenance and surface rock replacement for the USFS 3000 from the junction with the 3000150 to the City of Thorne Bay Bypass Road;
- g. Maintenance and surface rock replacement on the Bypass Road at the USFS rate unless otherwise agreed to in writing;
- h. Road use agreements required by other landowners will be the sole responsibility of the successful purchaser.

Evaluation of the Proposals

Proposals shall present documentation of their mill capacity in a clear manner so that the DOF can judge and convey its basis of decision to the other proposers. The proposer at a minimum is required to submit a summary of their mill capabilities on Exhibit C. If the proposer feels that more information is desired to reflect its position and experience, please attach the additional information to your proposal.

The State of Alaska intends to negotiate a timber sale agreement with the proposer that has the highest composite score for this sale, based on the following criteria and their respective weight:

1. The track record of the company to process **value-added** or **high value added** timber products. The successful proposer will document the past three years of mill production for their mill(s). The proposer that provides a clear and verifiable record will receive a total of 15 points (15%).
2. The proposed quantity of **value-added** or **high value added timber** products to be produced from the desired timber sale. Any facility, present or proposed, must be operational before sale purchase. The proposer with the highest proposed increment of **value-added** products for this sale will receive 35 points (35%). Other submitted proposed quantity of value-added timber products that are less than the highest

- submitted proposed quantity of value-added timber products, will be prorated based on the highest quantity submitted.
3. The proposed sale price from the proposer for the sale, 50 points (50%). The proposal will be evaluated based on a lump sum stumpage price total of timber to be processed into value added or high value added wood products in the State of Alaska. The highest price will get the most points. Other submitted proposal sale prices that are less than the highest submitted lump sum price will be prorated based on the highest price submitted.

Proposals which do not include the required information as listed above will be rejected and not scored. Appeal of rejected proposals must be in writing and received by the commissioner's office within twenty days after the date the rejected proposal was received by the proposer (11AAC 02.030).

Five points per question will be deducted for incomplete, misrepresented, or missing information on Exhibit C. If the proposer cannot answer a question on Exhibit C, the proposer must state that the question is unanswerable and provide the reason why. The DOF will not deduct points nor will it give points for a qualified "no response" to a question by the proposer in their proposal.

The DOF's decision to negotiate with the highest scoring proposer may be appealed in writing within five days in accordance with AAC 38.05.120. To appeal the decision the aggrieved proposer must have submitted a complete and timely proposal to the DOF for the timber sale in contention.

Communication regarding the timber sales will not be considered relevant unless presented in writing. A committee appointed by the Southeast Area Forester will evaluate the proposals. For additional information regarding this timber sale, contact the Division of Forestry Area Forester at greg.staunton@alaska.gov or at (907) 225-3070.

Submission Requirements

If your firm is interested in purchasing this sale, please provide this office with a completed proposal. Send to the attention of the Southeast Area Forester at the Alaska Department of Natural Resources, Division of Forestry, 2417 Tongass Avenue, Suite 213, Ketchikan, Alaska 99901 no later than **2:00 p.m. December 30, 2020**. Proposers are responsible for assuring that their complete proposal(s) are delivered on time.

All proposal(s) shall include the following information for the sale(s) you are proposing to purchase:

1. A copy of your current Alaska Business License;
2. A complete Timber Sale Proposal Sheet (Exhibit C);

3. A **certified cashiers check** or **money order** made out to the State of Alaska for **5% of your proposed purchase price** for the timber sale. The successful proposer's check or money order (Initial Stumpage Fee) will be used towards the purchase price of the timber sale. The unsuccessful proposers will have their check or money order returned.
4. The proposal will be submitted in an envelope labeled with the name and number of the timber sale and titled, "Timber Sale Proposal".

Proposals which do not include the required information as listed above will be rejected and not scored. Appeal of rejected proposals must be in writing and received by the commissioner's office within twenty days after the date the rejected proposal was received by the proposer (11AAC 02.030).

Sincerely,

Gregory D. Staunton
Southeast Area Forester

cc: Hans Rinke, DOF Kenai

Exhibits:

Exhibit A - Adopted Forest Land Use Plan Sale Area Maps (12 Pages)

Exhibit B - Timber Sale Cruise, contains the specific timber sale information for the sale, including the timber cruise reports and the sort and grade parameters. The timber sale was cruised by the DOF using the Atterbury Cruise Program. The sale information and volumes represented in this document and the reports are estimates only. The State does not warranty the total volume that may be cut in the sale or the appraised value, nor does it warranty map accuracy, species distribution, grade, quantity, quality or merchantability of the timber in the sale. It is the proposer's responsibility to make its own determination regarding the value, volume, and operability of the sale. (26 Pages)

Exhibit C - Timber Sale Proposal Sheet. (2 Pages)

Exhibit D - Timber Sale Sample Contract, contains information on logging requirements and requirements to be imposed around non-merchantable areas and riparian areas. (26 Pages)