



**BACKCOUNTRY
HUNTERS & ANGLERS
ALASKA**

January 2, 2026

Submitted via e-mail

Molly Benson
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Submitted on behalf of the Alaska Chapter of Backcountry Hunters & Anglers (BHA)

Re: Comments on the Changes to Regulations in 11 AAC 71 and 11 AAC 98 Relating to Materials Sales and Conveyances to State Agencies

Dear Ms. Benson:

Backcountry Hunters & Anglers respectfully submits these comments in opposition to the Alaska Department of Natural Resources' (DNR) proposed amendments to 11 AAC 71 and 11 AAC 98. These amendments would undermine long-standing constitutional and statutory safeguards requiring that state land and resource disposals serve **the public interest** and a legitimate public purpose. From BHA's perspective, the proposal represents a significant departure from Alaska's public trust framework and would enable large-scale subsidies to private industry at the expense of wildlife habitat, subsistence resources, public access, and long-term public benefit.

Alaska's Constitutional Public Interest Obligations

Article VIII of the Alaska Constitution establishes that all natural resources are to be managed "for the maximum benefit of its people" and "consistent with the public interest." These provisions are foundational to Alaska's public trust doctrine and require careful, case-by-case evaluation before state resources are disposed of or conveyed.

Alaska courts have repeatedly affirmed that DNR must take a "hard look" at all factors relevant to the public interest, including cumulative impacts, before authorizing resource disposals. The proposed regulatory changes abandon this requirement by predetermining that material conveyances to state agencies or public corporations, at a base price of \$0, is always in the public interest. This blanket determination is incompatible with the Constitution's demand for reasoned, project-specific decision-making and erodes public safeguards designed to protect fish and wildlife habitat, public access, and subsistence.



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Equally troubling, the proposed amendments remove existing prohibitions on third-party transfers. Together, these changes would allow state agencies or public corporations to act as pass-through entities, enabling free transfer of public materials, such as gravel, to private industrial projects without meaningful public review or compensation.

Conflict with the Alaska Lands Act

The Alaska Lands Act implements the Constitution's public interest mandate through explicit statutory requirements. Alaska Statute 38.05.035(e) requires a written best interest finding before the disposal of state land or materials. Alaska Statutes 38.05.550 and 38.05.810 further require public notice, analysis of foreseeable impacts, and findings that disposals below appraised value are fair, proper, and serve the public interest and a public purpose. Section 810 also requires the state to retain a reversionary interest unless a specific written finding justifies waiver. The proposed regulations disregard these requirements. By eliminating references to statutory findings, authorizing \$0 transfers as a default, and directing DNR not to retain reversionary interests, **the amendments conflict directly with legislative directives.** These changes do not just interpret statute, they nullify it, exceeding DNR's regulatory authority and undermining legislative intent.

Overbroad and Unlawful Definition of "Public Purpose"

Article IX, Section 6 of the Alaska Constitution prohibits the transfer of public property except for a public purpose. Alaska courts have consistently held that whether a public purpose exists must be evaluated in light of specific facts and circumstances and that direct subsidies to private industry require strong safeguards and clear public benefits.

The proposed definition of "public purpose" in 11 AAC 98 is extraordinarily broad, explicitly including uses that "support private commerce or industry." Under this definition, virtually any industrial development could be deemed a public purpose without analysis, safeguards, or enforceable public benefits. This approach contradicts constitutional case law and risks converting the public purpose requirement into a rubber stamp for industrial subsidies. From BHA's perspective, this is particularly concerning in the context of industrial access roads and extractive infrastructure. Projects such as the Ambler Road or West Susitna access proposals pose well-documented risks to subsistence resources, wildlife migration, clean water, and public access. Allowing free public materials to be used for such projects—without tolls, compensation, or enforceable public benefits—fails the constitutional public purpose test and shifts long-term costs onto the public.

Implications for Hunters, Anglers, and Public Lands

BHA members depend on healthy habitat, intact landscapes, and science-based management of public resources. These proposed amendments would prioritize short-term industrial convenience over long-term stewardship, creating incentives for over-extraction and infrastructure development that degrades habitats, compromises wildlife populations, and displaces traditional uses. Alaska's public lands should not be treated as a no-cost input for private development, particularly when the public bears the environmental and social risks.



The proposed amendments to 11 AAC 71 and 11 AAC 98 violate the Alaska Constitution, conflict with the Alaska Lands Act, and undermine the public trust principles that Alaskans rely on to protect shared natural resources. They would enable large-scale transfers of public resources to private industry without adequate review, compensation, or public benefit. The fact that these amendments are being advanced during the holidays, when the public input is typically limited, further suggest that these amendments are not in the public interest. For these reasons, the Alaska Chapter of Backcountry Hunters & Anglers urges DNR to withdraw and not finalize the proposed amendments.

Respectfully,



Mary Graves

On Behalf of the Alaska Chapter of Backcountry Hunters & Anglers



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