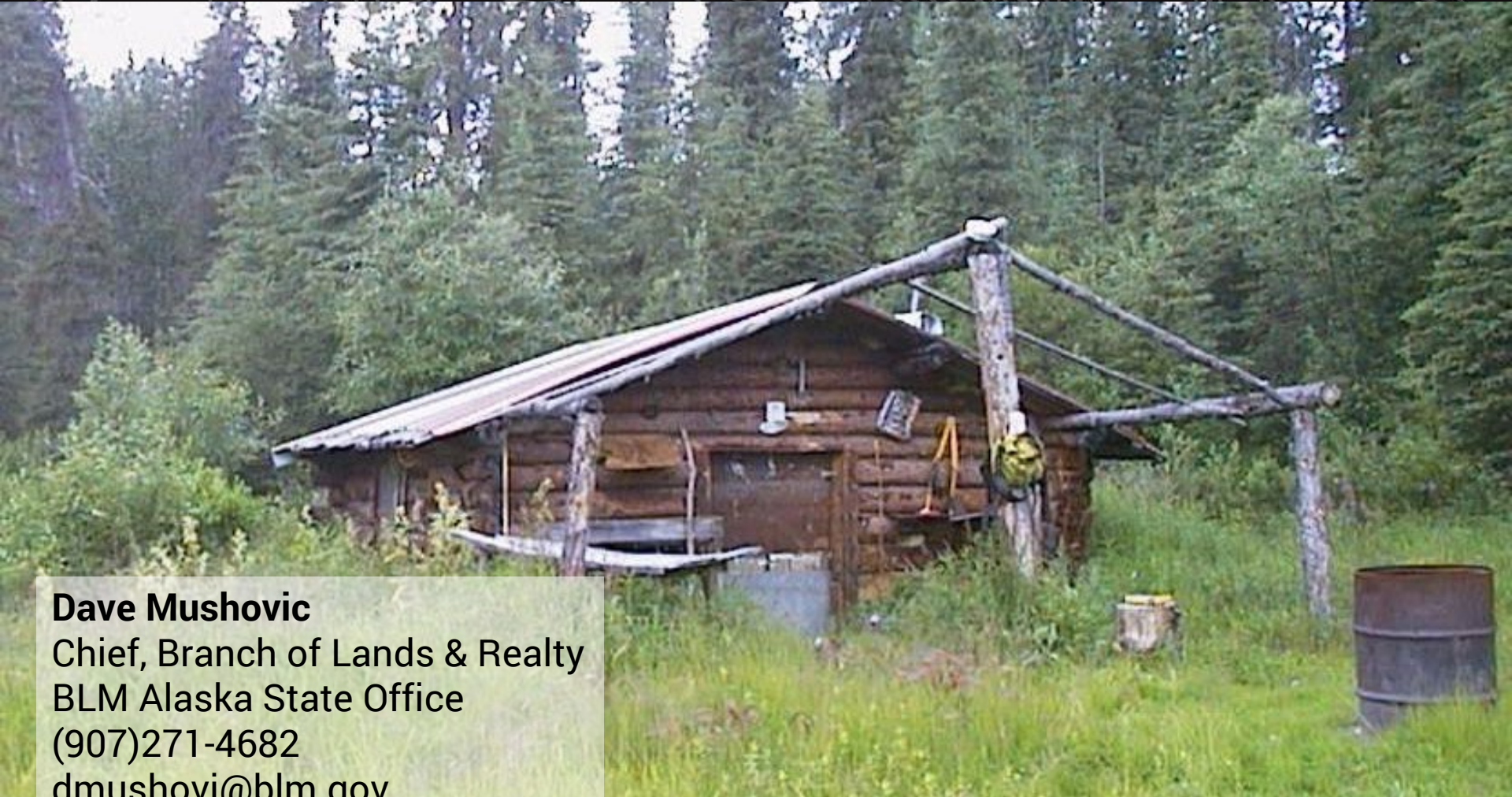




U.S. Department of the Interior
Bureau of Land Management

BLM Trapping Cabin Authorizations



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BLM Trapping Cabin Policy Overview

- ❖ Legal Framework
- ❖ Regulatory Framework
- ❖ Policy Framework
- ❖ Process
- ❖ Recently Approved Cabin Permit Casefile





FLPMA (1976)

Federal Land Policy and Management Act of 1976 (FLPMA) is the BLM organic act and was passed to establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes.

- Sec 102(a)(9) requires “the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute”.
- Sec 302(b) The Secretary shall,.. “Regulate through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands, including, but not limited to, long term leases to permit individuals to utilize public lands for habitation, cultivation, and development of small trade of manufacturing concerns:”.
- Sec 304(b)” The Secretary is authorized to require a deposit of any payment intended to reimburse the United States for reasonable cost with respect to applications and other documents relating to such lands.



ANILCA (1980) and Cabins

Section 1303(b) of the Alaska National Interest Lands Conservation Act (ANILCA) addresses the use of cabins and other sites of occupancy on Conservation System Units (CSU) National Wild and Scenic River System Units, National Conservation Areas, National Recreation Areas and National Trails System established or expanded by the Act, and applies **only to those lands within the following BLM-administered units:**

1. Unakaleet National Wild River
2. Beaver Creek National Wild River
3. Birch Creek National Wild River
4. Forty Mile National Wild, Scenic and Recreational River
5. Gulkana National Wild River
6. Delta National Wild, Scenic and Recreational River
7. Steese National Conservation Area
8. White Mountains National Recreation Area



ANILCA Sec. 1303(b) continued

(1) The construction of new cabins is prohibited except as **may be** authorized pursuant to a nontransferable, five-year special use permit issued by the Secretary. Such special use permit shall only be issued upon a determination that the proposed use, construction, and maintenance of a cabin is **compatible with the purposes** for which the unit or area was established and that the use of the cabin is either directly related to the administration of the unit or area or is necessary to provide for a continuation of an ongoing activity or use otherwise allowed within the unit or area where the permit applicant has **no reasonable alternative site** for constructing a cabin. **No special use permit shall be issued to authorize the construction of a cabin for private recreational use.**

(2) Traditional and customary uses of existing cabins and related structures on Federal lands within a unit or area may be allowed to continue in accordance with a nontransferable, renewable five-year special use permit issued by the Secretary. Such special use permit shall be issued only upon a determination that the traditional and customary uses are **compatible with the purposes** for which the unit or area was established. **No special use permits shall be issued to authorize the use of an existing cabin constructed for private recreational use.**



Additional ANILCA specifications

- “...Five-year permits... that shall be renewed until death of the last immediate family member.”
- ANILCA does not generally revoke the requirements of FLPMA or other applicable laws. (i.e. NEPA analyses)
- There are approximately 47 million acres of BLM-managed lands in Alaska (excluding NPR-A) that are administered under FLPMA. , However only 2.76 million acres of this land are within CSUs where Sec 1303(b) of ANILCA applies.
- No specific regulations have been issued to implemented, Sec 1303(b) of ANILCA
- Some changes to the regulations could potentially require legislation.



What is an Authorization?

Land uses authorized in:

- Legal instrument that authorizes use and occupancy.
- No use or occupancy may legally occur without a signed, written authorization when it is required.





Hierarchy of authority:

- Law is foundation for Regulations
- Regulations implement the law
- Policy implements regulations
- Regulations may be unique to agency





Permits under federal regulations

- 43 CFR 2920.0-5, referred to as 2920 permits
- May require publication of a Notice of Realty Action (NORA)
- Issued for up to 3 years (ANILCA 5yr) to permit use that involves little or no land improvements or construction or investment which can be amortized within the terms of the permit. May be renewed.
- Conveys NO possessory interest.
- Minimum Impact permit (43 CFR 2920.2-2)
 - Proposed use is in conformance with RMP
 - **And** no appreciable surface disturbance short term activities
 - No NORA required
 - Guidance for determining minimum impact permits under 43 CFR 2920 is provided in IM 94-59.
- Application submitted on form 2920-1
- Cost recovery procedures are the same as for ROWs – 43 CFR 2804.14 and 2805.16
 - State and local governments are exempt if the permit is for a governmental use, UNLESS revenue is generated, then they are not exempt.
 - ***Federal agencies MAY NOT hold a 2920 authorization***



2920 Lease (regulatory)

43 CFR 2920.0-5

- Requires publication of a NORA
- No set authorization period
- Conveys a possessory interest
- Revocable within terms of the lease
- Involves uses that have a *considerable capital investment*
- There is no standard application form



What is a NORA?

Public process to obtain an authorization under federal regulations (43 CFR 2920.4)

- Notice of Realty Action (NORA) that notifies the public of availability of public lands for non-federal use.
- Provide an opportunity to comment and serves to both classify and segregate public lands for the proposed purpose.
- A NORA can result from submission of a public initiated proposal or through the land use planning process.
- Required for:
 - Proposals for a lease or easement
 - Proposals to permit activities causing surface disturbance above the minimum impact level.



NORA requirements

The NORA must include:

- Use proposed for the public lands
- Notification that applications are being considered
- Specify the form of negotiation (competitive vs. non-competitive bidding)

The NORA must be:

- Published in the Federal Register
- Published once a week for three weeks in a newspaper of general circulation in the vicinity of the public lands included in the land use proposal.
- Sent to parties of interest, including, but not limited to, adjoining landowners, and current or past landowners.

Applications cannot be filed until after a NORA is published.

- The costs involved to make a public land availability determination are NOT reimbursable.
- Cost reimbursement begins with the application submitted in response to the NORA.
- Application submitted before a NORA is published shall not be processed and shall be returned to the person that submitted it. Return of application shall not be subject to appeal or protest. (43 CFR 2920.4(d))



Process for a Cabin Permit

- ✓ Submit proposal & plan of development-hold pre-application meeting
 - ✓ Determine appropriate authority and type of authorization
 - ✓ ANILCA Determinations if in Conservation System Unit (CSU)
 - ✓ Selected lands require concurrence or consultation by State or ANCSA CORP.
 - ✓ Publish NORA if required
 - ✓ Accept application
 - ✓ Determine if application is complete
 - ✓ Cost Recovery decision
 - ✓ Once fees received start the NEPA and prepares require reports
 - ✓ Cadastral may need to complete Legal Description Review
 - ✓ NEPA complete & Decision of Record (DOR) signed, then issue decision offering authorization and determining rental, monitoring costs, and bonding
- ✓ Once money is received with authorization signed by the applicant BLM issues decision executing the authorization.



Recently Approved Permit Casefile

Date	Code Description:	Remarks
20-NOV-2018	001 Apln Recd/Case Establi	--
29-MAR-2021	004 Amend/Corr Apln Recd	--
06-DEC-2021	849 Category 3 Cost Recove	\$869 BILL #2022013552
14-JAN-2022	146 Nepa Analysis Initiate	-AK-F030-2022-0008-EA
01-FEB-2022	887 Resource Clearances	WILDERNESS CHARACTER
04-FEB-2022	113 Addtl Info Recd	TRAPPING INVEST RCPTS
16-FEB-2022	887 Resource Clearances	ESSENTIAL FISH HABITA
16-FEB-2022	951 Subsistence Eval Comp	ANILCA 810 SUBSISTANC
18-FEB-2022	991 Cult/Paleo Res Review	--
22-MAR-2022	147 Nepa Analysis Approved	--
24-MAR-2022	093 Rental Rate Det/Adj	\$270
24-MAR-2022	810 Cat 1 Cost Recovery -M	\$136
08-APR-2022	466 Bond Required	PRIOR TO 2023 SEASON
08-APR-2022	176 Permit Issued	--
01-DEC-2022	054 Next Billing Date	\$270
08-AUG-2024	203 Compl/Review Due Date	--
15-APR-2025	763 Expires	END OF TRAP SEASON



Expediting the Process

BLM began processing trapping cabins under short term (3 years with one option to renew) minimum impact permits whenever possible to eliminate the need, cost, and time of publishing a NORA.

In 2012, the BLM issued an instruction memorandum amending BLM Manual 2920 to eliminate the 25% income requirement for winter trapping cabins only. The BLM has just reissued in 2022 this guidance and requirement in IM

The BLM implemented a minimum rental schedule for land use authorizations in Alaska in 2014, and it was updated and renewed in 2020. The establishment of a minimum rental schedule eliminates the need to conduct an individual appraisal to determine the fair market value required for the use of the public lands, and significantly reduced the time and costs to process an application.



Questions?

*Cabin pictured is the “Miner’s Hall” along the Taylor Hwy near Chicken, not a permitted cabin.