

ATTACHMENT F

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER**

**Plan Amendment
Kenai River Comprehensive Management Plan
(Relating to unit 382D in the Kenai Area Plan)**

The Commissioner of the Department of Natural Resources (DNR) finds that the following amendment, described more fully in the Attachment, to the Kenai River Comprehensive Management Plan (KRCMP), satisfies the requirements of AS 41.21.500-514 and does hereby adopt it as the policy of the Department. The Department of Natural Resources will manage state lands within the area of the revision consistent with this plan amendment.

Conditions of Approval: This plan amendment becomes effective if there is an affirmative decision to convey land to a quasi-public entity for the purpose of providing public safety services, as provided for in the written decision for ADL 231084. It is also dependent on associated plan amendments and special exceptions to the Kenai Area Plan and the approval of Land Classification Order SC-99-002A07. If an affirmative decision to dispose of state land for this purpose is *not* provided for in this decision, *or* if any related actions including the plan amendment, special exceptions, and land classification order do *not* occur, the current plan recommendation to retain this unit and incorporate it into the KRSMA as provided for in Recommendation 4.5.4.6 (Table 4-6a) in the KRCMP is retained

Related Actions: If the final finding and decision on this proposed action determines that it is in the best interest of the state to convey this parcel, and the revisions noted in the previous paragraph are approved, this plan amendment is intended to revise certain management authorities within DNR: the Special Use Designation and Management Agreement included as Appendix G in the KRCMP. The Management Agreement between the Divisions of Mining, Land, and Water and Parks and Outdoor Recreation (ADL 226527) assigns responsibility for the management of certain areas of general state land that are proposed to be added to KRSMA and the Special Use Designation (SUD) affects the management of state land within this area more generally. The SUD and Management Agreement are included as Appendix G of the KRCMP. The effect of this action is to delete management unit 382D from the listing of parcels in Table 1 of that Appendix. Other than this change, the SUD and Management Agreement are unaffected.

Concur: _____
Brent Goodrum, Director
Division of Mining, Land and Water
_____ Date

Concur: _____
Ben Ellis, Director
Division of Parks and Outdoor Recreation
_____ Date

Approved: _____
Daniel S. Sullivan, Commissioner
Department of Natural Resources
_____ Date

**ATTACHMENT
KENAI RIVER COMPREHENSIVE MANAGEMENT PLAN
PLAN AMENDMENT**

Recommendation 4.5.4.5

Recommendation 4.5.4.6

Name: Disposal of state land along the Kenai River and deletion of requirement to add unit KAP 382D to KRSMA.

Authority: The authority to develop and revise the Kenai River Comprehensive Management Plan derives from AS 41.21.506.

Current Plan: Recommendation 4.5.4.5 states that if the state must dispose of land, a buffer should be retained in state ownership or the land should be subject to a vegetated conservation easement of 200 feet for fish and wildlife purposes. Recommendation 4.5.4.6 recommends that DNR submit to the legislature amendments to the (then current) legal description of KRSMA to incorporate properties contained in tables Table 4-6a through Table 4-6c. Table 4-6a includes unit 382D, which, in a separate disposal action, may be conveyed under AS 38.05.810(a) to a quasi-governmental entity, the purpose of which is to provide public safety services.

Proposed Plan Amendment(s): Recommendation 4.5.4.5 is to be amended to require a riparian protection area of 70 feet (rather than 200 feet), but this is only to apply to unit 382D. Recommendation 4.5.5.6 is to be amended to delete unit 382D from the listing of areas to be added to KRSMA in Table 4-6a.

Explanation: The purpose of this plan amendment is to enable the conveyance of state land to a quasi-governmental entity in order to provide public safety services to the community of Moose Pass and its adjacent areas. (This assumes that the Final Finding and Decision will be approved generally as provided for in the Preliminary Decision for this action.) Without this amendment, and other associated changes to the Kenai Area Plan and the reclassification of this unit to Settlement through a land classification order, conveyance to this entity cannot occur. It is in the overall public interest to provide such services, as described in the Preliminary Decision. This plan amendment is contingent upon an affirmative finding and decision in the written disposal decision, as well as approval of the associated actions involving changes to the KAP and the reclassification of the unit to Settlement.

Assessment: Assuming that the written disposal decision recommends the conveyance of state land to a quasi governmental entity, there are only two alternatives that merit consideration: to either provide for the conveyance of state land to a local entity in the manner described in the written decision or to retain state land for the purpose of inclusion in the Kenai River Special Management Area. The rationale for conveying

state land to this entity is explained in the Preliminary Decision and needs no further elaboration. However, it is not clear that the value of this action exceeds the value of retaining this unit in state ownership for eventual inclusion in KRSMA. This parcel is flat, has structures on it, is almost certainly affected by hazardous materials, and is substantially de-vegetated. The recommendation for inclusion in the KAP (p. 3-32) is, however, for those parcels that have an 'undisturbed shoreline', indicating that the intent is for only parcels that are unaffected by development and retain vegetation are appropriate for inclusion in KRSMA. Given the characteristics of this parcel, this standard is not met and it is more appropriate to enable the conveyance of this unit to the quasi-governmental entity. Accordingly, it is appropriate to delete the requirement to retain this unit in state ownership and include it in KRSMA.

It is also appropriate to reduce the 200-foot buffer requirement to 70 feet and to not require that this area be retained as state land. Some guidance as to how this requirement may be satisfied is provided in the Background section of this recommendation. This requirement really applies to areas of state land that have not been affected by development and have not been de-vegetated, particularly in the area of state land adjacent to an anadromous waterbody. This same background section also indicates that areas adjacent to streams may often be best protected through the imposition of buffers and building setbacks. Further, more recent riparian research has indicated that the most important area to protect and manage as a riparian area is the first 70 feet measured from Ordinary High Water. This research also indicates that vegetated buffers that are achieved through the imposition of setbacks or easements, while not as preferable as retaining an area in public ownership, are nonetheless effective. The use of a setback stipulation, identified in the associated Preliminary Decision, is particularly suitable for the Kenai Peninsula Borough area since the borough uses that approach and therefore it should be more effective in its administration and in achieving effective riparian protection.