ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
MUNICIPAL ENTITLEMENT

SPECIAL EXCEPTION
KENAI AREA PLAN

KENAI PENINSULA BOROUGH
REGION 4 – COOPER LANDING
MAP 1: JEROME LAKE AREA
MANAGEMENT UNIT 408C
ADL 227984

Special Exception to: Kenai Area Plan[1] (KAP or plan)

Location: Region 4 - Cooper Landing. The proposed action affects a Kenai Peninsula Borough (KPB) municipal entitlement land selection in the area southwest of Jerome Lake and north of the Sterling Highway. The selected area, which is the subject of this 'special exception', pertains to the NW1/4NW1/4 of Section 15, in T. 5 N., R. 2 W., Seward Meridian, consisting of 40 acres. It affects management unit 408C of the KAP.

Authority: The proposed action for this 'special exception' is authorized pursuant to Alaska Statute (AS) AS 38.04.065(b); Administrative Code 11 AAC 55.030(f)(1)(B) defines when a revision constitutes a 'special exception'. The authority to approve is delegated to the Division of Mining Land and Water, Section Chief or Regional Manager by Department Order No. 03 (DO03).

Current Plan: The KAP includes specific management intent for state lands that are to be retained by the state for certain determined reasons. Specifically, management unit 408C is classified as Public Recreation and intended to be retained in state ownership, particularly Sections 10 and 15. This area is noted to be too steep for development and is not to be conveyed to a municipality (KAP, 3-121).

Proposed Special Exception: The proposed 'special exception' is to allow a one-time limited variance of the plan's provision without changing the plan's general management intent and guidelines. This special exception voids the intent as it pertains only to the NW1/4NW1/4 of Section 15, in T. 5 N., R 2 W., SM, consisting of 40 acres. All other aspects of the management intent for unit 408C remain unchanged.

Explanation: The 'special exception' is necessary so the KPB can relocate a community gun range out of its inappropriate site within a developed area to an undeveloped area, which is the area proposed for conveyance to the KPB. The interests of the KPB outweigh the interest of the

[1] The *Kenai Area Plan* (KAP) adopted in 2000 determines the management intent, land-use designations, and management guidelines that apply to all state lands in the applicable planning area. This plan forms the basis for the land use classifications that constitute VUU land for purposes of determining the eligibility of state land for potential conveyance.

state in retaining this land. DNR has determined that the aforementioned area would be appropriate to convey to the KPB for the purpose of developing a community gun range.

Assessment: There are two alternatives to this special exception: (1) The state continues to retain the land in accordance to the management intent of the KAP; (2) Approve the special exception to allow for the relocation of the community gun range out of a developed area of town to an undeveloped area. The intention of relocating the gun range to a safer location is clearly desirable; the interest of the borough outweighs the interest of the state in this instance.

AS 38.04.065(b): The factors identified in this section of statute have been considered in this special exception and the proposed action is consistent with this portion of statute.

Preliminary Decision: The standards for this special exception have been reviewed and met. I find that this 'special exception' to the KAP, as described above, meets the criteria under 11 AAC 55.030(f)(1)(B) and by my authority under AS 38.04.065(b) and DO03 is hereby approved.

Effective Date of Decision: This 'special exception' becomes effective if there is an affirmation decision to convey land affected by this 'special exception' in the Preliminary Decision ADL 227984. The effective date of the decision shall be the effective date of the Final Finding and Decision.

This special exception, described above, has been reviewed and considered. I find that the recommended actions may be in the best interest of the state and that it is hereby approved to proceed to public notice. This is a preliminary determination and subsequent public review may result in changes to the special exception.

Bruce Phelps

Bruce Phelps, Section Chief
Resource Assessment & Development

5/1/14

Date