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of ALASKA
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Department of Natural Resources

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PLAN AMENDMENT

KENAI AREA PLAN

The Commissioner of the Department of Natural Resources finds that the attached amendment to the Kenai Area Plan meets the requirements of AS 38.04.065 and 11 AAC 55.010-030 for land use plans and hereby adopts the amendment. The Department of Natural Resources will manage state lands consistent with this amendment.

Commissioner

Date

KENAI AREA PLAN

DRAFT PLAN AMENDMENT

MANAGEMENT UNITS: 48A, 237, 371A, 380H, 382B, 382H, 385, 401, 410E, 410G

Background: The Kenai Area Plan was prepared in the late 1990's and adopted in 2000. This plan covers all land within the Kenai Peninsula Borough and is the basis for Department of Natural Resources (DNR) decision making on state lands and waters. It established land use classifications throughout the borough on state land. Under AS 29.65 some land use classifications are conveyable to a municipality while others are not. Those classifications that are conveyable include, within the borough, Settlement, Agriculture, Resource Management, and Public Recreation. Classifications that are not conveyable include, within the borough, Forestry, Water Resources, and Wildlife Habitat.

The management of state land through the plan is also governed by what are termed 'co-classifications' and management' intent'. The term co-classification refers to the use of two (and sometimes three) classifications for particular management unit. A management unit is an area of state land, which may be of varying size. Co-classifications are meant to be complementary to each other. Their importance in the entitlement decision is that both classifications must be conveyable to a municipality under AS 29.65.130(10), and if one or more classifications are non-conveyable, then the management unit that is affected by the classification is not conveyable. Management intent statements are those statements of within the plan that give more specific management direction to the way that state land is to be managed. In the KAP there are numerous units that include the requirement that land be retained in state ownership.

Accordingly, for those units that are affected by a classification that is non-conveyable or a management requirement that mandates that the state retain ownership, these units cannot be conveyed to the borough, *unless* the land classification is changed in a Land Classification Order and the plan designation and management intent statement are changed through a plan amendment. The purpose of this plan amendment is to amend specific units that are affected by non-conveyable classifications or constraining management intent statements and are recommended for conveyance to the Kenai Peninsula Borough (borough). Revisions to the classification and management intent that will result in the unit(s) becoming conveyable to the municipality are recommended in this plan amendment.

The borough has a municipal entitlement of 155,780 acres. To date, 100,125 acres have been conveyed through patent to the borough and another 31,035 acres has been approved for conveyance through final findings and decisions. The borough has equitable title to this land. The remaining entitlement is approximately 27,000 acres and is the subject of a related municipal entitlement decision of 2,437 acres (Regions 1, 5 8 &9). This decision effects municipal entitlement selections in regions 2, 3, 6 and 7 for 43,348 acres of the Kenai Area Plan (KAP or Plan). The recommendations in this Plan Amendment are meant to change either land classifications or management intent text, or both, that now preclude the conveyance of certain selections to the borough. The accompanying entitlement decision, however, makes the

determination of whether a particular selection should be/should not be conveyed; this plan amendment and its accompanying Land Classification Order (LCO) reflect the decision in the Preliminary Decision that recommends the conveyance of a selection or a portion of a entitlement selection. It essentially effectuates this decision.

Current Plan Requirements:

An initial agency review of the plan designations related to the management units, of which there are 108, in the four regions of the Kenai Area Plan affected by the entitlement decision determined that nearly all of the current classifications remain appropriate. That is, the current designations in the KAP correctly reflect the values and uses of state land as they apply to individual management units. This review also largely confirmed the appropriateness of current management intent statements. Agencies involved in this review included those entities that would be directly or indirectly affected by the outcome of the accompanying entitlement decision, including ADF&G, DOF, DPOR, and DMLW (SCRO, Mining, Water, Land Contact and Land Sales, and Resource Assessment sections).

However, this review also determined that certain plan designations and/or management intent statements must be changed in order to effectuate determinations to convey a management unit or a portion of a management unit in the municipal entitlement decision that accompanies this plan amendment. Ten management units are affected. The following table identifies, by region and management unit, their current plan designation and management intent. Comments are sometimes included as well if there is pertinent information associated with the management unit.

Region/Management Unit	Plan Designation/Classification	Management Intent (if applicable)	Comment
2/380H	Public Recreation – Dispersed (conveyable)	Retain in state ownership	
2/382B	Water Resources (non-conveyable)	To protect water quality for domestic use by Moose Pass residents	
2/382H	Public Recreation – Dispersed (conveyable) Habitat (non-conveyable)	Retain in state ownership.	Unit is important as brown bear movement corridor and contains numerous tributaries (to Trail River) that support salmon spawning and rearing.
2/385	Settlement (conveyable)	Management intent	Review of land

		requires that the area within 200' of OHW from Trail River be retained by the state; however, the remainder can be conveyed.	status and imagery indicates that this is an island, not uplands. The state retains islands within navigable waterways.
2/401A	Public Recreation – Dispersed (conveyable) Habitat (non-conveyable)	Protect brown bear movement corridor, Iditarod National Historic Trail, Ptarmigan Creek, and moose/mountain goat winter concentration areas Also manage for trail-related recreation (Falls and Ptarmigan Creeks)	
2/410E	Public Recreation – Dispersed (conveyable)	Retain in state ownership. Manage for dispersed recreation. Protect scenic values associated with Seward Highway.	
2/410G	Public Recreation (Use Site) Conveyable	Portions may be conveyed to a municipality; the plan specifically mentions the 'lower elevations' along the Seward Highway and notes that areas adjacent to sensitive waters should be protected. Maintenance of the scenic values along the Seward is especially important.	This is a large parcel (353 acres) and it is unclear why the area plan identified the area as a 'public use site' since these occupy small, discrete areas.
3/371A	Habitat (non-conveyable)	Retain the parcel in	This area is only

(portion)	Forestry (non-conveyable)	state ownership.	part of the larger unit, 371A. It occupies the SW1/4SW1/4 of section 31
7/48A (portion)	Habitat (non-conveyable) Forestry (non-conveyable)	Management Intent describes the forest resources within the unit, and indicates that prior to sale ADF&G will review for retention of bear corridors.	
7/237	Resource Management (conveyable)	Management intent indicates that portions of the unit may be conveyable to a municipality. The area ½ mile landward from the coast (which includes the bluff rim) is to be retained by the state, however.	

Proposed Plan Revisions: The proposed plan revisions, which includes plan designation/classification either/or both, are identified below, including the rationale for change.

Region/Management Unit	Proposed Plan Designation/Classification	Management Intent (if applicable)	Justification/Comment
2/380H	Public Recreation – Dispersed (conveyable)	<p>Change the management intent to the following: “Convey that portion of unit that occupies the W ½ of sections 7 and 18.”</p> <p>For that portion of the unit that is conditionally approved, change the management intent to: “If required, convey of that portion of the unit within the E ½ of sections 7 and 18 to the borough.”</p>	<p>Although this unit has several important trail systems in it (Iditarod, Crown Point Road, and Vogt Lake) and there is significant recreation use, these uses do not constitute sufficient justification for retaining this unit in state ownership. The trails can be maintained by reservation or easement and recreation is a use that the borough can adequately manage.</p> <p>The justification for this change is the same as noted above. However, it is uncertain if this portion of the unit will be conveyed to the borough. If it is, the recommended management intent apply. If not, the current plan designation and management intent are retained.</p>
2/382B	Settlement	<p>Change the management intent to the following: “Convey this unit to the borough for the purpose of local management of the water supply resources of the Moose Pass area.”</p>	<p>Although Water Resources is a non-conveyable classification under AS 29.65.130(10), the management intent for this unit in the KAP states that the parcel is primarily important in the future (after a scheduled timber sale that has since transpired) as a</p>

			<p>domestic water source supply. This function can be fulfilled as readily by the borough as the state and there is no significant state interest present.</p>
2/382H	No change (Habitat and Public Recreation)	<p>Revise management intent to add the following language: "DNR recognizes that there will be a need to access borough land situated to the north. Reasonable access to these areas should be provided."</p>	<p>The inclusion of this language to the current management intent text is appropriate since access to the borough's holdings to the north of this unit can only occur through this unit, which accessed to a bridge crossing of Trail River.</p> <p>The remainder of the management intent of this unit remains unaffected.</p>
2/385	Habitat/Public Recreation	<p>Replace the Management Intent with the following: This small parcel occupies an island in the Trail River. It is to be retained by the state and is to be managed consistent with the objectives of KRSMA. It is recommended to be added to KRSMA.</p>	<p>The current designation is inappropriate for this parcel; it should be Habitat and Public Recreation (the usual designation given to rivers). It is also appropriate for addition to KRSMA given its location in a major tributary to the Kenai River.</p>
2/401A	Public Recreation	<p>Convey that portion of unit 401A within the NE$\frac{1}{4}$NW$\frac{1}{4}$ of section 18, S004N001E to the borough.</p> <p>(The remainder of unit 401A is unaffected by this change, and retains its current designations and management intent.)</p>	<p>Unit 401A is situated to the east of unit 380I and south of unit 380H, both of which are to be conveyed to the borough. It is appropriate that a connection be provided between these two units, so that the borough can access its lands in this area of Moose Pass. The NE$\frac{1}{4}$NW$\frac{1}{4}$ of section 18 will be conveyed to provide this connection. This is a small area (40 acres) within the much larger unit (401A) and is situated some distance from anadromous</p>

			<p>streams; the remaining area of unit 401A is sufficient to provide a bear movement corridor, which is a principle concern of the management intent for unit 401A.</p> <p>Other than this change, the remainder of the unit is unaffected by this change.</p>
2/410E	No change. (currently Public Recreation).	Delete the requirement that requires the state to retain this unit. Replace with the following: "Unit is appropriate for conveyance to the borough."	<p>The area upslope of the highway is within the scenic viewshed of the Seward Highway. This area is considered important to the overall management of the Seward Hwy, a major state road. The management intent of the KAP for this unit identifies this area as 'Retain in state ownership'.</p> <p>Although the state could retain these areas, the intent of this management requirement can be as effectively achieved by imposing a stipulation that the borough must adhere to the Seward Highway Corridor Partnership Plan as that document applies to this area. This plan has been adopted by the borough and the borough is obliged to follow its recommendations. A stipulation is included in the municipal entitlement decision that imposes a scenic buffer requirement along the Seward Highway.</p>
2/410G	No change. (currently Public Recreation)	Delete the requirement that requires the state to retain the lower elevations of this unit on the west side of the Seward Highway. Replace with the following: "Unit is appropriate for	DNR, in its analysis of this selection, determined that the principle state interest pertinent to this selection is maintenance of the scenic views adjacent to the Seward Highway. The remaining areas of the selection are either

		conveyance to the borough.”	<p>appropriate for development along the Highway or, pertinent to the interior areas of the selection, that the interests of the borough are greater than that of the state and that this area could as effectively be managed by the borough as the state. The borough’s Stream Habitat Protection Ordinance applies to both streams and lakes and should be effective in protecting these areas.</p> <p>Although the state could retain selected areas adjacent to the Seward Highway, the intent of this management requirement can be achieved by imposing a stipulation that the borough must adhere to the Seward Highway Corridor Partnership Plan as that document applies to this area. This plan has been adopted by the borough and the borough is obliged to follow its recommendations. A stipulation is included in the municipal entitlement decision that imposes a scenic buffer requirement along the Seward Highway.</p>
3/371A (portion)	The SW1/4SW1/4 of Section 31, T002NR001E is to be absorbed into the adjacent management unit, 371B, which is designated Public Recreation, a conveyable	<p>For the area that is to be conveyed, change the management intent for this area to: “This portion of the management unit is appropriate for conveyance to the borough.”</p> <p>Note: The management intent of the remainder of this unit is unaffected by this change.</p>	This parcel occupies fairly level terrain and adjoins Bear Lake on its eastern boundary. It has attributes more characteristic of unit 371B than of 371A.

	classification. There is no need for change in the designation once the area is absorbed into the larger unit.		
7/48A (portion)	Public Recreation (The remainder of the unit retains the current designations of Forestry and Habitat.)	For the portion of management unit 48A that is to be conveyed, replace the Management Intent with the following: “Based upon recent reviews of the resources within this unit (2014), this area is appropriate for conveyance to the borough.” Note: The management intent of the remainder of this unit is unaffected by this change.	The resources of this unit are primarily related to forest/timber harvest and to the maintenance of bear corridors. Review of this area by DOF did not indicate that this area was critical to their mission any more. Areas of bear movement along streams have been retained by the state (are not to be conveyed to the borough).
7/237	Resource Management (No change)	Delete the requirement to retain a portion of the unit that is situated in the bluff area.	The KAP indicates School Trust Land is to be retained and that portions of the unit with bluffs are also to be retained. School Trust Land is not evident in this unit and the area of the bluffs is also not evident on imagery. However, the borough can manage these areas as well as the state and there is no overriding state interest in retaining this unit.

Alternative Courses of Action: There are two alternative courses of action: either retain the current plan designations and management intent or replace these with designations and management intent that are recommended in ‘Proposed Plan Revisions’. In the former instance these areas could not be conveyed to the borough whereas in the latter they could be. Based upon a review of each of these units changed circumstances were found to exist that would justify a change in plan designation and management intent. The rationale for these changes is explained in ‘Proposed Plan Revisions’. It is therefore more appropriate to revise the plan with

the aforementioned changes than to retain the current designations or management intent. This approach is referred to as the 'Preferred Alternative'.

Recommended Action: Based upon an extensive review of the management units that constitute this decision and the specific attributes of the units (identified above), the recommended action is described under the 'Preferred Alternative'. This course of action is determined to be in the overall best interest of the state. It achieves the intent of the Municipal Entitlement Act, which is to convey land from the state to municipalities when there are no overriding state interests. Such interests were not identified in this review for units recommended to be conveyed to the borough. AS 29.65.050 requires that state land without the presence of a specific state interest, and that meet the requirements of vacant, unappropriated, unreserved land under AS 29.65.020, to be conveyed to a municipality.

A land classification order, which accompanies the Plan Amendment, reclassifies the management units that are re-designated to those classifications noted in 'Proposed Plan Amendments.' See attachment.

Evaluation of AS 38.04.065(b) Requirements: The factors identified in this section of statute have been considered in this plan amendment and the proposed action is consistent with that portion of statute.

Authority to Proceed: Authority to proceed to public notice is appropriate and is authorized.

Bruce Paulson

1-6-2015

Section Chief,

Date

Resource Assessment and Development