

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

**FINAL FINDING AND DECISION
CONVEYANCE OF LAND UNDER AS 29.65.010**

| KENAI PENINSULA BOROUGH MUNICIPAL LAND ENTITLEMENT SELECTIONS ALASKA DIVISION OF LANDS (ADL) | |
|---|---|
| Region 2 | Seward Highway from the Hope Y to the South End of Kenai Lake: <ul style="list-style-type: none"> • ADL's 63912, 201306, 227985 |
| Region 3 | Seward and Resurrection Bay: <ul style="list-style-type: none"> • ADL's 201305, 229760 |
| Region 6 | Kasilof River Drainage: <ul style="list-style-type: none"> • ADL's 55708, 55713, 55728, 227969, 227978, 227988, 227996 |
| Region 7 | Homer (including Ninilchik River, Deep Creek, and Anchor River drainages): <ul style="list-style-type: none"> • ADL's 53281, 55740, 55745, 55746, 64632, 206346, 206345, 206248, 206349, 217089, 222751, 227977, 227998, 228340 |

I. SUPPLEMENT STATEMENT

This Final Finding and Decision (FFD or decision) supplements the Preliminary Decision (PD) issued on January 6, 2015 for the proposed actions, which are incorporated herein, except as modified or clarified by this FFD. The attached maps to this FFD depict the selections that are the focus of this decision. Many of the Kenai Peninsula Borough (KPB or borough) selections that were shown on the PD maps have been affected by the borough relinquishments of certain selections. These relinquishments occurred between the date of the issuance of the PD and this FFD. The unit maps, which are the B maps in the PD, depict the units that are the subject of this decision. The area(s) of relinquishments is specifically identified in the FFD maps.

II. RECOMMENDED ACTION

The Department of Natural Resources (DNR) has determined in this FFD that Alternative 3 described in the PD is the preferred action since it best fits the intent and requirements of the Municipal Entitlement Act. The PD recommended actions were to convey, transferring management authority, conditionally approve, and reject in part (thereby retaining in state ownership) certain lands as municipal entitlement selections by the borough. The FFD generally follows those recommendations of the PD, but has modified the PD to a limited degree.

This FFD *approves for conveyance*¹ 5,282 acres (TABLE 2), *conditionally approved/ postpones* 3,369 acres, (TABLE 3 & 4) and *rejects* 24,692 acres (TABLE 5). The borough also

¹ Including the transfer of management authority.

relinquished 9,601 acres (TABLE 6) of their selections as part of a separate action. These relinquishment areas have been identified on the following regions and maps: Region 2, Map 4: Lower Trail Lake, Region 3, Map 1: Bear Lake, Region 6, Maps 1 & 2: Cohoe Loop, Clam Gulch, Region 7, Maps 1-6: Ninilchik River, Stariski Creek, Caribou Hills, Anchor River, Olhson Mountains, East End Road. The relinquishment of this amount of acreage fundamentally affected the original recommendations in the PD.

Certain other modifications, principally affecting units in Region 2, alter the original recommendations for conveyance and non-conveyance. These modifications impose certain stipulations that affect the manner of subsequent borough management of state conveyed lands. TABLE 1 lists these changes from the PD² to the FFD. Changes were also made to reflect the results of land status research³.

TABLE 1

PRINCIPAL CHANGES IN DECISION BETWEEN PD AND FFD

| Affected Regions/ Units # | Changes in Conveyance Status or Stipulations | Area of Application | Comment |
|--------------------------------------|--|--|---|
| Region 2 Unit 380G | There is no change in status at this time. However, if certain specific conditions are met, a portion of the unit will be conveyed on or before five (5) years from the adoption of the FFD. | See Revised Maps for area of potential conveyance. | This change provides for the potential conveyance of a portion of this unit adjacent to lakeshore in western and southern parts (not the eastern part, which is the bulk of the unit) if certain conditions are fulfilled. The requirements are lengthy; see TABLE 3 'Conditionally Approved Units for Conveyance' for details. |
| Region 2 Unit 380H | Although the recommendation for conveyance of this unit to the borough is retained, conveyance will be subject to certain conditions and to a subsequent plan amendment. | | This change requires the borough to fulfill the specific requirements outlined in TABLE 3, 'Conditionally Approved Units for Conveyance', subject to a plan amendment. |
| Region 2 Unit 380J | Deleted PD requirement to retain land within 200 feet of ordinary high water mark (OHWM) of Trail River. Now subject to conformance with recommendation 4.5.4.5 of KRCMP. | | |
| Region 2 Unit 380N | Deleted PD requirement to retain land within 200 feet of OHWM of Trail River. Now subject to conformance with recommendation 4.5.4.5 of KRCMP. | | |

² TABLE 1 is a summary of these changes, and details on these changes are throughout this decision and in the plan amendment.

³ Note: Additionally, a parcel called Japanese Creek (Map 2/Region3) has been removed from this decision since it was not a borough selected parcel, and the Stariski Creek parcel in Region 7 has been removed since it has been conveyed to another entity.

| | | | |
|-----------------------|--|---|--|
| Region 2 Unit 380K | Deleted PD requirement to retain land within 200 feet of OHWM of Trail River. Now subject to conformance with recommendation 4.5.4.5 of KRCMP. | | Provisions in TABLE 3, 'Conditionally Approved Units for Conveyance', provide for conveyance under certain conditions. If fulfilled, land is conveyed to borough within 18-months from date of adoption of FFD, subject to a plan amendment. |
| Region 2 Unit 381 | Changed from not conveyed to conveyed | Change <i>only</i> affects the area south of Grant Creek. | Provisions in 'Conditionally Approved Units for Conveyance' provide for conveyance under certain conditions. If fulfilled, land is to be conveyed to the borough 18-months from date of adoption of FFD, subject to a plan amendment. |
| Region 2 Unit 382B | Changed from conveyed to not convey. | | Retains current classification of Water Resources in KAP. |
| Region 2 Unit 382H | Deleted PD requirement to retain land within 200 feet of OHWM of Trail River. Now subject to conformance with Recommendation 4.5.4.5 of KRCMP. | | Provisions in TABLE 3, 'Conditionally Approved Units for Conveyance,' provide for conveyance under certain conditions. If fulfilled, land is conveyed to borough within 18-months from date of adoption of FFD, subject to a plan amendment. |
| Region 2 Unit 401E | Changed decision to postpone action for a subsequent plan amendment. | | |
| Region 2 Unit 401G | Changed decision to postpone action for a subsequent plan amendment. | | |
| Region 2 Unit 401A | Changed decision to require that this small area be integrated into unit 380H and follow the requirements of this unit. | | The requirement for reclassification in unit 380H are to apply to this small area as well. |
| Region 3 Unit 371 | The small area within SW¼SW¼ of Section 31 in unit 371 is to be retained in state ownership. | | The area near the lake was determined to important and is to be retained by the state. |
| Region 3 Unit 373 | Unit deleted from units identified as to be rejected in PD. | | Unit was determined to be a City of Seward entitlement selection, not a borough selection. |
| Region 6 No Unit # | Unit deleted from units identified as to be rejected in PD. | | Unit is not state land. (T. 2 S., R.15 W, Section 20) |
| Region 6 Unit 86A | Unit deleted from units identified as to be Approved in PD. | | Unit already conveyed to borough |
| Region 6 Unit 86B | Unit added to TABLE 2 in FFD. | | Unit not included in table in PD that identified units to be conveyed. |

III. CONDITIONS, RESTRICTIONS AND RESERVATIONS

This decision modifies item #7 in the PD under 'Reservations and Restrictions' to delete the requirement and is restated as "*The borough shall adhere to the requirements of Recommendation 4.5.4.5 in the KRCMP in its management of units 380J, 380K, 380N, and 382H.*" There are no other changes to this section of the decision.

IV. FINAL FINDING AND DECISION ACTIONS

The FFD has modified the PD relative to the original recommendations of conveyance and conditional approval. This has occurred because, most specially, the KPB has relinquished a significant portion of their selections (9,601 acres). Additionally, changes have occurred as a result of land status research and from the discussions with the borough (February 11, 2015) on units along Lower Trail Lake, Trail River, and the Kenai Lake shoreline in Region 2. TABLE 1 provides a listing of the principal changes, organized by the KAP management unit. The following tables list the lands that are to be conveyed to KPB (TABLE 2), lands that are conditionally approve/postpones for conveyance (TABLE 3 & 4), lands that are rejected (TABLE 5), and lands the borough has relinquished (TABLE 6).

LANDS TO BE CONVEYED

TABLE 2 lists those lands totaling 5,282 acres for conveyance to the borough. The approved acreage for conveyance was modified from the amount (16,053 acres) in the PD; this resulted primarily from the relinquishment of 9,601 acres of borough land selections. The final determined acreage is a net chargeable acreage that will be credited towards the partial fulfillment of the KPB municipal land entitlement. These lands are subject to the applicable conditions, restrictions and reservations as listed in the PD and as modified in this FFD. The state will retain the beds including all the islands and gravel bars within any navigable waters and anadromous streams. The estimated acreages for conveyance does not account for any exclusions from navigable waters⁴.

TABLE 2

| Region | Map # Parcel Name | Seward Meridian Township, Range | Section Legal Description **Affected by a Plan Amendment & Unit # | Acres |
|--------|----------------------|--|---|-------|
| 2 | 1 Hope Y | T8N, R1W | Sec. 15: That portion in the NW¼NE¼ lying between the Hope Highway and East Fork Six Mile Creek, and that portion in the N½SW¼NE¼ lying between the Hope Highway and East Fork Six Mile Creek (51.6 ac), and SW¼SE¼ (40 ac) Sec. 22: NE¼NE¼ (40 ac), E½NW¼NE¼ (20 ac), SW¼NW¼NE¼ (10 ac) | 162 |
| 2 | 2 Summit Lake | T7N, R1W | Sec. 28: That portion of Gov. Lot 1 (178 ac), <i>excluding ASLS 970053, 20000038</i> Sec. 29: Gov. Lot 1 (68 ac), <i>excluding ASLS 970053, 990029, 990024, 20000038</i> Sec. 32: That portion lying southeast of the Seward Hwy the S½SW¼, shows as a triangular area (9 ac) | 225 |
| | | T6N, R2W | Sec. 24: NE¼ (160 ac), that portion of N½SE¼ (38.2 ac), <i>excluding ASLS 950065 Lots 1- 4, 6A, 9- 11 (6.88 ac), excluding ADL 220488 (9.5 ac), and E½SE¼SW¼ (13 ac), excluding ADL 220488 (7ac)</i> | 211 |

⁴ Units affected by a plan amendment, required before conveyance can occur, are identified with two asterisks symbols (**) in TABLE 2.

| | | | | |
|---|--|-----------|--|-----|
| 2 | 3 Moose Pass (Upper Trail Lake) | T5N, R1W | Sec. 24: EPF 20060056 Lots 4 & 5 of the lands that fall south of the Seward Hwy. (25.02 ac) | 25 |
| 2 | 4 Moose Pass (Lower Trail Lake) | T5N, R1W | Sec. 25: Lot 9, Block 2 of USS 2676 (.19 ac) Sec. 36: Lot 1, Block 3 of USS 2676 (.65 ac) | 1 |
| | | T4N, R1W | Sec. 01: Gov. Lots 9 & 10 (62 ac), E $\frac{1}{2}$ SW $\frac{1}{4}$ (80 ac) Sec. 12: Gov. Lots 5, 6, 9 & 10 (104 ac), E $\frac{1}{2}$ W $\frac{1}{2}$ (160 ac) Sec. 13: Gov. Lots 4, 5, 10 & 11 (106 ac), the south 1/3 of Lot 9 in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ (9 ac), SW $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), S $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ (10 ac), that portion of USS 1778 in the S $\frac{1}{2}$ SE $\frac{1}{4}$ (13 ac), ASLS 86-176 Lots 4, 6, 7 & 11 (3.28 ac), that portion of Lot 1 USS 7391 the S $\frac{1}{2}$ SE $\frac{1}{4}$ (18 ac), Lots 1 & 4 of USS 8666 (12 ac), <i>excluding Trail River</i> | 617 |
| | | T4N, R1E | **Sec. 06: That portion of Gov. Lot 11 lying south of Grant Creek (26 ac) (TABLE 3/unit 381) **Sec. 07: Gov. Lots 3, 7 (70 ac) and Lot 5 in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ (11 ac), <i>excluding Vogt Lake</i> , SE $\frac{1}{4}$ (160 ac), S $\frac{1}{2}$ NE $\frac{1}{4}$ (80 ac), S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ (20 ac), NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac) (TABLE 3/unit 380H) **Sec. 18: E $\frac{1}{2}$ (320 ac), E $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac), NE $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac), Gov. Lots 4 & 5 (58 ac), Lot 2 of USS 8666 (10 ac) (TABLE 3/unit 380H) | 885 |
| 2 | 5 Ptarmigan Creek | T4N, R1W | Sec. 24: Gov. Lots 1, 3, 6- 9 & 11 (270.65 ac), USS 2550 Lot H (0.8 ac), W $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac) Sec. 25: Gov. Lots 1, 3, 5, 7 & 9 (116 ac) | 468 |
| | | T4N, R1E | Sec. 19: Gov. Lots 1- 4 (125 ac), NE $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac) Sec. 30: Gov. Lots 1, 3 & 4 (86.53 ac), E $\frac{1}{2}$ SW $\frac{1}{4}$ (80 ac) | 332 |
| 3 | 1 Bear Lake | T2N, R1W | Sec. 36: W $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac) | 80 |
| | | T1N, R1W | Sec. 01: Gov. Lot 1 (36 ac), <i>excluding the Alaska Railroad</i> , SE $\frac{1}{4}$ NE $\frac{1}{4}$ (40 ac), Gov. Lots 5 & 6 (66 ac), that portion east of the Alaska Railroad in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ (7 ac), that portion east of the Alaska Railroad in the W $\frac{1}{2}$ SE $\frac{1}{4}$ (36 ac) Sec. 12: Gov. Lots 5 & 6 (46 ac), Gov. Lot 7 (9 ac) <i>excluding the Alaska Railroad</i> Sec. 13: SE $\frac{1}{4}$ NE $\frac{1}{4}$ (40 ac), S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ (20 ac), NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac), E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ (5 ac), S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ (20 ac), E $\frac{1}{2}$ /SW $\frac{1}{4}$ (80 ac), <i>excluding Salmon Creek from the OHWM to the OHWM.</i> | 415 |
| | | T1N, R1E | Sec. 06: That portion in the W $\frac{1}{2}$ W $\frac{1}{2}$ near Bear Lake (71.86 ac) Sec. 07: Gov. Lot 3 (47 ac), that portion of Gov. Lot 1 in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ lying south of the unnamed creek (.35 ac), that portion of Gov. Lot 2 lying south of the unnamed creek (39.19 ac), that portion in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ lying south of the unnamed creek (23 ac), NE $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac) | 222 |
| | | T2N, R1E | Sec. 31: W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ (120 ac) | 120 |
| 6 | 1 Cohoe Loop | T4N, R11W | Sec. 13: SE $\frac{1}{4}$ (160 ac) Sec. 24: W $\frac{1}{2}$ NE $\frac{1}{4}$ (80 ac), E $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac), NE $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac), NW $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac) | 400 |
| | | T3N, R12W | Sec. 03: Gov. Lot 1 (41.13 ac), portion Gov. Lot 2 (7 ac), SE $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac), E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ (10 ac) | 98 |

| | | | | |
|--------------|----------------------|-----------|--|--------------|
| | | T3N, R11W | Sec. 02: SW $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac) Sec. 03: SE $\frac{1}{4}$ NE $\frac{1}{4}$ (40ac) Sec. 21: SE $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac) Sec. 29: E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac) | 140 |
| 6 | 2 Clam Gulch | T2N, R12W | Sec. 02: Gov. Lot 4 (40 ac), N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ (20 ac) Sec. 03: Gov. Lots 1 & 2 (80 ac), S $\frac{1}{2}$ NE $\frac{1}{4}$ (80 ac), SW $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), NW $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac) | 300 |
| | | T2N, R11W | Sec. 05: That portion in the E $\frac{1}{2}$ SW $\frac{1}{4}$ west of winter trail (60 ac) | 60 |
| 7 | 1 Ninilchik River | T1N, R13W | Sec. 34: E $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac), E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac) | 100 |
| | | T1S, R13W | Sec. 07: N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac) | 20 |
| 7 | 2 Stariski Creek | T3S, R14W | Sec. 19: E $\frac{1}{2}$ NE $\frac{1}{4}$ (80 ac), SW $\frac{1}{4}$ NE $\frac{1}{4}$ (40 ac) | 120 |
| 7 | 4 Anchor River | T4S, R14W | Sec. 31: S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ (20 ac), SE $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), W $\frac{1}{2}$ of Gov. Lot 4 (20 ac) | 70 |
| | | T5S, R15W | Sec. 01: E $\frac{1}{2}$ of Gov. Lot 4 (20 ac) Sec. 04: NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ (2.5 ac) | 23 |
| | | T5S, R14W | Sec. 19: S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ (5 ac), NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ (10ac) Sec. 20: NW $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ (20 ac) | 75 |
| 7 | 5 Ohlson Mtn | T6S, R13W | Sec. 06: Gov. Lot 4 (33 ac), SE $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac) | 73 |
| 7 | 6 East End Road | T5S, R12W | Sec. 24: NE $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac) | 40 |
| TOTAL | | | | 5,282 |

LANDS TO BE CONDITIONALLY APPROVED

TABLE 3 lists those lands that will be conditionally approved by this decision. The lands identified in the PD for conditional approval have been deleted. The borough either wanted these lands to be conveyed (unit 380H) or they have relinquished them (a portion of unit 371B).

The lands now identified as *conditionally approved* include six (6) units in Region 2; a portion of 381, 380H, 382H, 380K, and a portion of 401A, 410E, unit 410G. If the conditions for conveyance are met within the time period specified in TABLE 3 for these units, they are intended to be conveyed, subject to a plan amendment to be initiated by DNR at that time. Similarly, 380G may be conveyed, but this action is dependent on amendment of the KAP and KRCMP, among other requirements. Also included in lands to be conditionally conveyed is a portion of unit 48A in Region 7. A plan amendment will be required to convey this area. Until conveyed, these lands will remain in state ownership and management. If they are not conveyed, they will remain in state ownership and retain the current classifications and management intent in the KAP and KRCMP. If these lands are conveyed to the KPB, the borough will receive equitable title at such time and, when surveyed, the determined net chargeable acreage will be credited towards their entitlement. They will be subject to the applicable conditions, restrictions and reservations as listed in the PD and as listed below.

TABLE 3
CONDITIONALLY APPROVED UNITS FOR CONVEYANCE

| Unit # | Stipulation for conveyance |
|--------|---|
| 48A | A plan amendment, to be implemented within 18 months, will be initiated to convey these lands. DNR has determined in this decision that the conveyance of this portion of unit 48A is appropriate but will postpone action until a formal plan amendment has been processed. |
| 380H | The borough shall classify this land for Public Recreation, which shall occur within 18-months from the date of this decision and shall retain this land for this purpose. If the classification action is not completed within 18-months from the date of the adoption of the FFD, the current designations and management intent are retained. The borough shall coordinate with the ADF&G in this analysis. If this analysis is successfully completed, a plan amendment will be initiated with the intent of conveying this unit to the borough. |
| 380K | The borough shall classify this land for Public Recreation (or Heritage Resources), which shall occur within 18-months from the date of this decision and shall retain this land for this purpose. If the classification action is not completed within 18-months from the date of the adoption of the FFD, the current designations and management intent are retained. The borough shall coordinate with the DNR DPOR in this analysis. The borough is subject to Recommendation 4.5.4.5 in the KRCMP. If this analysis is completed a plan amendment will be initiated with the intent of conveying the unit to the borough. |
| 381 | The borough shall classify this land for Public Recreation, which shall occur within 18-months from the date of this decision and shall retain this land for this purpose. If the classification action is not completed within 18-months from the date of the adoption of the FFD, the current designations and management intent are retained. The borough shall coordinate with the ADF&G in this analysis. If this analysis is completed, a plan amendment will be initiated with the intent of conveying this unit to the borough. |
| 382H | The borough shall classify this land for Public Recreation, which shall occur within 18-months from the date of this decision, and shall initiate and conclude a planning process for this unit that evaluates, among other things, east-west bear movement and shall provide an area(s) for such movement, if such movement is found to exist. If this analysis and classification are not completed within 18-months from the date of the FFD, the current designations and management intent are retained. The borough shall coordinate with the ADF&G in this analysis. The borough is subject to Recommendation 4.5.4.5 in the KRCMP. If this analysis is completed a plan amendment will be initiated with the intent of conveying the unit to the borough |
| 380G | That portion of unit 380G, depicted on the entitlement map as 380G(1), may be conveyed to the borough under the following conditions: The borough shall prepare and adopt a land management plan for the aforementioned area (or this area shall be included in a local comprehensive plan) within five (5) years from the date of adoption of the FFD. At a minimum this plan is to ensure adequate screening from the Seward Highway, the protection of anadromous streams, and the provision of a lakeshore buffer of at least 100-feet. The plan shall provide sufficient management detail to locate uses and shall identify mitigation stipulations to ensure the protection of significant wetlands, riparian areas, and the hydrologic connections from streams to Lower Trail Lake. To effectuate this plan (and result in the conveyance of state land) will require the amendment of the KAP and KRCMP. The borough shall request the initiation of the Plan Amendment process for the two plans and shall be responsible for the provision of required information to the state, if requested, in these actions. The amendment of these plans shall occur within the 5 year period. |

| | |
|-------------|--|
| 401A | The requirements for unit 380H shall also apply to this small area, which adjoins the much larger unit to the north. |
| 410E | A plan amendment, to be implemented within 18-months, will be initiated to delete the current management intent requirement. If successful, the unit will be conveyed. |
| 410G | A plan amendment, to be implemented within 18-months, will be initiated to delete the current management intent requirement. If successful, the unit will be conveyed. |

CONDITIONALLY APPROVED/POSTPONED

TABLE 4 lists the lands that are conditionally approved/postpone for conveyance (TABLE 1 and 3).

TABLE 4

| Region | Map # Parcel Name | Seward Meridian Township, Range | Section Legal Description | Acres |
|---------------|----------------------------------|--|---|--------------|
| 2 | 2 Summit Lake | T7N, R1W | **Sec. 28: Gov. Lot 2 (.81 ac), and that portion of Gov. Lot 1 that falls north of Mills Creek (28 ac), that portion of USMS 2189 in the NW¼NW¼ that falls north of Mills Creek (30 ac) (TABLE 3/unit 410E) **Sec. 29: That portion of Gov. Lot 1 in the E½NE¼ (57 ac) (TABLE 3/unit 410E) | 116 |
| | | T6N, R1W | **Sec. 05: SW¼NE¼ (40 ac), N½NW¼ (80 ac), that portion in the NW¼SE¼ (32 ac), that portion in the NW¼SW¼ (11 ac), that portion in S½NW¼ (53 ac), excluding Tracts A, B & C (TABLE 3/unit 410G) | 216 |
| 7 | 1 Ninilchik River | T1N, R12W | **Sec. 14: SE¼NW¼ (40 ac), E½SW¼ (80 ac) (TABLE 3/unit 48A) **Sec. 22: N½N½ (160 ac) (TABLE 3/unit 48A) | 280 |
| | | T1N, R11W | **Sec. 17: E½ (320 ac), E½W½ (160 ac) (TABLE 3/unit 48A) **Sec. 18: NE¼ (160 ac), W½SE¼ (80 ac), NE¼SE¼ (40 ac) Sec. 19: NW¼NE¼ (40 ac), E½NW¼ (80 ac), Gov. Lot 4 (40 ac) (TABLE 3/unit 48A) **Sec. 20: E½ (320 ac), S½NW¼ (80 ac), N½SW¼ (80 ac), SE¼SW¼ (40 ac), E½SW¼SW¼ (20 ac), NW¼SW¼SW¼ (10 ac) (TABLE 3/unit 48A) **Sec. 29: All (640 ac) (TABLE 3/unit 48A) **Sec. 30: E½ (320 ac) (TABLE 3/unit 48A) | 2,430 |
| TOTAL | | | | 3,042 |

LANDS TO BE REJECTED

TABLE 5 below lists those lands totaling approximately 24,692 acres that are *rejected* for conveyance to the borough. The reasons for this action includes the land that is not owned by the state, the selection is not properly classified or is inconsistent with the management intent requirements of the KAP, or most importantly, a state interest exists that warrants retaining the land in state ownership⁵.

TABLE 5

| Region | Map # Parcel Name | Seward Meridian Township, Range | Section Legal Description **Affected by a Plan Amendment & Unit # | Acres |
|--------|--|--|--|-------|
| 2 | 2 Summit Lake | T7N, R1W | Sec. 32: That portion of the selection, excepting that portion in Unit 410F lying southeast of the Seward Hwy in the S½SW¼ (9+/- ac), a triangular area. (267 ac) | 267 |
| | | T6N, R2W | Sec. 24: Material Site/ADL 220488 in the S½ (17 ac) | 17 |
| 2 | 3 Moose Pass Upper Trail Lake | T5N, R1W | Sec. 12: SE¼ (160 ac), SE¼SW¼ (40 ac) Sec. 13: Gov. Lots 1- 4 (107.28 ac) N½NE¼ (80 ac), SW¼NE¼ (40 ac), E½NW¼ (80 ac), SW¼NW¼ (40 ac), W½SW¼ (80 ac), NE¼SW¼ (40 ac), NW¼SE¼ (40 ac) Sec. 14: SE¼SE¼ (40 ac) Sec. 22: Gov. Lots 1 & 2 (51.63 ac), S½NW¼ (80 ac), NE¼SW¼ (40 ac), S½SW¼ (80 ac), W½SE¼ (80 ac), NE¼SE¼ (40 ac) Sec. 23: Gov. Lots 1- 5 (151.35 ac), N½NE¼ (40 ac), E½W¼ (80 ac), SW¼NW¼ (40 ac) Sec. 24: Gov. Lots 1- 3, 7 & 8 (77.62ac) Sec. 25: Gov. Lots 1, 7- 9 & 14 (58.44 ac) | 1,646 |
| | | T5N, R1E | Sec. 07: Gov. Lots 1- 15 (370.44 ac), E½NW¼ (80 ac) Sec. 18: Gov. Lots 1- 10 (217.18 ac), E½NE¼ (80 ac) Sec. 19: Gov. Lots 1- 5 (118.84 ac), W½NE¼ (80 ac), SE¼NW¼ (40 ac), E½SW¼ (80 ac) Sec. 30: Gov. Lots 1- 4 (157 ac), S½NE¼ (80 ac), E½NW¼ (80 ac), E½SW¼ (80 ac), SE¼ (160 ac) | 1,623 |
| 2 | 4 Moose Pass Lower Trail Lake | T5N, R1W | Sec. 36: Gov. Lots 1, 4- 6, 9 & 10 (39 ac) | 39 |
| | | T5N, R1E | Sec. 31: Gov. Lots 1, 2, 5 & 6 (152.42 ac), W½E½ (160 ac), E½W½ (160 ac) | 472 |
| | | T4N, R1W | Sec. 01: Gov. Lots 1, 4-8, 11 & 12 (10 ac) **Sec. 01: Gov. Lot 3 (26 ac) – (TABLE 3/unit 380G) Sec. 12: Gov. Lots 1, 3, 4, 8, 11 & 12 (30 ac) **Sec. 12: Gov. Lots 2 & 7 (17 ac) (TABLE 3/unit 380G) Sec. 13: Gov. Lot 1 (25 ac) **Sec. 13: 7 & 8 (43 ac), north 2/3 portion of Lot 9 (24 ac), NW¼SW¼ (40 ac), N½SW¼SW¼ | 292 |

⁵ In the event that one or more of the Conditionally Approved units do not satisfy the criteria for conveyance they are rejected and TABLE 4 is modified to include such units.

| | | | | |
|---|-------------------------|-----------|--|-------|
| | | | (20 ac), N $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ (10 ac) (TABLE 3/unit 382H) **Sec 13: That portion of USS 7391 in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ (19 ac), that portion of USS 1778 in the N $\frac{1}{2}$ SE $\frac{1}{4}$ (27 ac) (TABLE 3/unit 380G) | |
| | | T4N, R1E | Sec. 06: Gov. Lots 1- 10 (112 ac), that portion of Gov. Lot 11 that lays north of Grant Creek (3 ac), W $\frac{1}{2}$ E $\frac{1}{2}$ (160 ac), E $\frac{1}{2}$ W $\frac{1}{2}$ (160 ac) Sec. 07: Gov. Lots 1, 2, 4 & 5 (part), 6 (199.86 ac), NW $\frac{1}{4}$ NE $\frac{1}{4}$ (40 ac), NE $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac) | 725 |
| 2 | 5 Ptarmigan Creek | T4N, R1E | Sec. 19: E $\frac{1}{2}$ (320 ac), SE $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), E $\frac{1}{2}$ SW $\frac{1}{4}$ (80 ac) Sec. 30: Gov. Lot 2 (31.73 ac), N $\frac{1}{2}$ NE $\frac{1}{4}$ (80 ac), SW $\frac{1}{4}$ NE $\frac{1}{4}$ (40 ac), E $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac) | 672 |
| | | T4N, R1W | Sec. 24: Gov. Lots 2, 4, 5, 10 & 13 (49 ac) and that portion of Tract 38 of the transportation corridor. Sec. 25: Gov. Lots 2, 4 & 6 (36 ac) and that portion of Tract 38 of the transportation corridor. **Sec. 25: Gov. Lot 8 (8 ac) (TABLE 3/unit 380K) | 93 |
| 3 | 1 Bear Lake | T2N, R1W | Sec. 24: E $\frac{1}{2}$ (320 ac) Sec. 25: E $\frac{1}{2}$ (320 ac) Sec. 36: NE $\frac{1}{4}$ (160 ac), W $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac) | 880 |
| | | T2N, R1E | Sec. 19: All (640 ac) Sec. 30: E $\frac{1}{2}$ (320 ac), E $\frac{1}{2}$ W $\frac{1}{2}$ (160 ac), SW $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac) Sec. 31: E $\frac{1}{2}$ (320 ac), E $\frac{1}{2}$ W $\frac{1}{2}$ (160 ac), SW $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac) | 1,680 |
| 3 | 3 Thumb Cove | T2S, R1E | Sec. 08: USS 3570 Lots 1 and 2 (6 ac) | 6 |
| 6 | 1 Cohoe Loop | T4N, R11W | Sec. 20: NE $\frac{1}{4}$ (160 ac) | 160 |
| | | T3N, R11W | Sec. 04: W $\frac{1}{2}$ SW $\frac{1}{4}$ (80 ac) Sec. 05: E $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac) | 160 |
| 6 | 2 Clam Gulch | T2N, R12W | Sec. 32: NE $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac) | 40 |
| 7 | 1 Ninilchik River | T1N, R13W | Sec. 25: SW $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac) Sec. 26: SE $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac) | 80 |
| | | T1N, R11W | Sec. 18: SE $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac) | 40 |
| | | T1S, R13W | Sec. 13: W $\frac{1}{2}$ SW $\frac{1}{4}$ (80 ac) Sec. 14: E $\frac{1}{2}$ 2SE $\frac{1}{4}$ (80 ac) | 160 |
| 7 | 3 Caribou Hills | T2S, R11W | Sec. 31: All (640 ac) | 640 |
| | | T3S, R13W | Sec. 23: All (640 ac) Sec. 26: All (640 ac) Sec. 35: All (640 ac) Sec. 36: All (640 ac) | 2,560 |
| | | T3S, R11W | Sec. 06: All (640 ac) Sec. 07: N $\frac{1}{2}$ (320 ac) Sec. 20: All (640 ac) Sec. 21: W $\frac{1}{2}$ (320 ac) | 1,920 |
| | | T4S, R12W | Sec. 08: E $\frac{1}{2}$ (320 ac) Sec. 09: All (640 ac) Sec. 10: All (640 ac) Sec. 11: All (640 ac) Sec. 14: All (640 ac) Sec. 15: All (640 ac) Sec. 16: All (640 ac) Sec. 17: All (640 ac) | 8,640 |

| | | | | |
|--------------|-------------------------|-----------|---|---------------|
| | | | Sec. 18: All (640 ac) Sec. 19: All (640 ac) Sec. 20: All (640 ac) Sec. 21: All (640 ac) Sec. 22: All (640 ac) Sec. 23: All (640 ac) | |
| 7 | 4 Anchor River | T5S, R15W | Sec. 02: E $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac), NE $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac), NW $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac) Sec. 13: S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ (20 ac) Sec. 13: ASLS 950038 Tract A southwest of Sterling Hwy Right-of-Way (10.42 ac) | 190 |
| 7 | 5 Ohlson Mountain | T5S, R14W | Sec. 35: N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (5 ac), N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (5 ac), SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (2.5 ac), W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (5 ac), SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (2.5 ac), SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (2.5 ac), S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ (5 ac), NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ (2.5 ac), SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac), W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ (20 ac), SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac), N $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac), SE $\frac{1}{4}$ NW $\frac{1}{4}$ (40ac), W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac), | 290 |
| | | T5S, R13W | Sec. 34: NE $\frac{1}{4}$ NE $\frac{1}{4}$ (40 ac) | 40 |
| 7 | 6 East End Road | T4S, R11W | Sec. 29: S $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac) Sec. 31: All (640 ac) Sec. 32: All (640 ac) | 1,360 |
| TOTAL | | | | 24,692 |

LANDS RELINQUISHED

TABLE 6 lists the lands that KPB recently relinquished. These lands will remain in state ownership.

TABLE 6

| Region | Map # Parcel Name | Seward Meridian Township, Range | Section Legal Description | Acres |
|--------|--|--|---|-------|
| 2 | 4 Moose Pass (Lower Trail Lake) | T5N, R1W | Sec. 36: Gov. Lots 2, 3, 7 & 8 (182 ac) | 182 |
| 3 | 1 Bear Lake | T1N, R1W | Sec. 01: N $\frac{1}{2}$ SW $\frac{1}{4}$ (80 ac), SE $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), that portion west of the most eastern easement boundary of the Alaska Railroad (117 ac) Sec. 12: That portion west of the most eastern easement boundary of the Alaska Railroad (28 ac) | 265 |
| | | T1N, R1E | Sec. 07: Gov. Lot 4 (38 ac), SE $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac), that portion in E $\frac{1}{2}$ NE $\frac{1}{4}$ lying south of the creek (45 ac) Sec. 18: Gov. Lots 1- 4 (154.16 ac), E $\frac{1}{2}$ W $\frac{1}{2}$ (160 ac) | 437 |
| | | T2N, R1E | Sec. 30: W $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac), NW $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac) | 120 |

| | | | | |
|---|----------------------|-----------|---|-------|
| 6 | 1 Cohoe Loop | T3N, R11W | Sec. 02: NW $\frac{1}{4}$ NE $\frac{1}{4}$ (40 ac), N $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac) Sec. 03: S $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ (40 ac), SW $\frac{1}{4}$ (160 ac), W $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac), N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac) | 420 |
| | | T3N, R12W | Sec. 21: NE $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), Gov. Lots 10- 14 & 16 (21ac) | 61 |
| 6 | 2 Clam Gulch | T3N, R12W | Sec. 33: EPF 580039 Lot 3A (27 ac), S $\frac{1}{2}$ Lot 1A (14 ac) | 41 |
| | | T2N, R12W | Sec. 09: NE $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac) Sec. 32: SE $\frac{1}{4}$ (160 ac) | 200 |
| 7 | 1 Ninilchik River | T1N, R13W | Sec. 25: NE $\frac{1}{4}$ (160 ac), W $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac) Sec. 34: SE $\frac{1}{4}$ NE $\frac{1}{4}$ (40ac) | 280 |
| | | T1N, R12W | Sec. 20: N $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac) Sec. 22: S $\frac{1}{2}$ S $\frac{1}{2}$ (160 ac) Sec. 23: S $\frac{1}{2}$ (320 ac), N $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac) Sec. 24: SW $\frac{1}{4}$ (160 ac), S $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac) Sec. 27: All (640 ac) Sec. 28: SE $\frac{1}{4}$ NE $\frac{1}{4}$ (40 ac), E $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac) Sec. 29: N $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac) Sec. 34: SW $\frac{1}{4}$ NE $\frac{1}{4}$ (40 ac), E $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac), NW $\frac{1}{4}$ SE $\frac{1}{4}$ (40ac) | 1,880 |
| | | T1S, R13W | Sec. 03: N $\frac{1}{2}$ Gov. Lot 4 (20 ac) Sec. 04: NE $\frac{1}{4}$ Gov. Lot 1 (10 ac), S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ (20 ac), N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ (20 ac), SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ (10 ac) Sec. 07: S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac) Sec. 20: E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ (20 ac), SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ (10 ac), SW $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac) Sec. 28: S $\frac{1}{2}$ NE $\frac{1}{4}$ (80 ac), S $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac), SW $\frac{1}{4}$ (160 ac), W $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac) | 570 |
| 7 | 2 Stariski Creek | T3S, R14W | Sec. 14: W $\frac{1}{2}$ SW $\frac{1}{4}$ (77.5 ac) Sec. 15: NE $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac) Sec. 17: S $\frac{1}{2}$ NE $\frac{1}{4}$ (80 ac), S $\frac{1}{2}$ (320 ac) Sec. 20: NW $\frac{1}{4}$ (160 ac) | 678 |
| | | T4S, R14W | Sec. 1: S $\frac{1}{2}$ S $\frac{1}{2}$ (160 ac) Sec. 12: N $\frac{1}{2}$ (320 ac) | 480 |
| 7 | 3 Caribou Hills | T4S, R13W | Sec. 16: All (640 ac) | 160 |
| 7 | 4 Anchor River | T4S, R14W | Sec. 29: N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (20 ac), SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac), NE $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ (20 ac) Sec. 31: S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ (20 ac) | 110 |
| | | T5S, R15W | Sec. 12: NE $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ (20 ac), W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ (10 ac) Sec. 13: W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ (20 ac), NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ (10 ac) Sec. 14: NE $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac), W $\frac{1}{2}$ SW $\frac{1}{4}$ (80 ac), W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ (5 ac), NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ (2.5 ac) Sec. 23: S $\frac{1}{2}$ N $\frac{1}{2}$ (160 ac), NW $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ (20 ac), S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (20 ac), W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (5 ac) Sec. 24: NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac), NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac), N $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac), SW $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac), N $\frac{1}{2}$ SW $\frac{1}{4}$ (80 ac), NW $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac), S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac), S $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ (10 ac), NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ (2.5 ac), NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ (2.5 ac) | 768 |

| | | | | |
|--------------------|--------------------|-----------|---|-------|
| | | T5S, R14W | Sec. 04: SW $\frac{1}{4}$ (160 ac), W $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac) Sec. 07: SE $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac) Sec. 19: S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ (5 ac), NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac) Sec. 20: SE $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), NE $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac) Sec. 28: that portion in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ lying south of original old North Fork Road (21 ac) Sec. 30: Gov. Lots 1, 2 (64 ac), NE $\frac{1}{4}$ NE $\frac{1}{4}$ (40 ac), N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (80 ac), NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac), N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ (5 ac), SE $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), E $\frac{1}{2}$ SW $\frac{1}{4}$ (80 ac), W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac), SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ (10 ac), S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ (5 ac), NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ (2.5 ac), SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ (10 ac), NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ (10 ac), S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ (5 ac), NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ (2.5 ac), E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac) Sec. 32: E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ (5 ac) | 805 |
| 7 | 5 Ohlson Mtn | T5S, R14W | Sec. 35: NE $\frac{1}{4}$ NE $\frac{1}{4}$ (40 ac), S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (5 ac), SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (2.5 ac), NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (2.5 ac), E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (5 ac), NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ (2.5 ac), NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ (2.5 ac), E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ (20 ac), NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac), E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac) | 110 |
| | | T5S, R13W | Sec. 22: N $\frac{1}{2}$ (320 ac), N $\frac{1}{2}$ SW $\frac{1}{4}$ (80 ac) Sec. 29: NE $\frac{1}{4}$ (160 ac), N $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac), SW $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ (20 ac), NW $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac), S $\frac{1}{2}$ SW $\frac{1}{4}$ (80 ac), NE $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac), E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac), N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ (5 ac), S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ (5 ac) Sec. 30: Gov. Lots 1- 4 (128 ac), N $\frac{1}{2}$ NE $\frac{1}{4}$ (80 ac), E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ (20 ac), NE $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac), W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ (20 ac), SE $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac), W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ (20 ac), SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ (10 ac), S $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac), E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac) | 1,348 |
| | | T5S, R12W | Sec. 21: NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ (10 ac), N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ (2.5 ac), SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ (5 ac) Sec. 30: Gov. Lots 1- 3 (95.39 ac), E $\frac{1}{2}$ NW $\frac{1}{4}$ (80 ac) | 193 |
| | | T6S, R14W | Sec. 02: N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ (5 ac), N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ (5 ac), W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ (5 ac) | 15 |
| | | T6S, R13W | Sec. 06: Gov. Lot 3 (38 ac), NE $\frac{1}{2}$ SW $\frac{1}{4}$ (40 ac) | 78 |
| 7 | 6 East End Road | T4S, R11W | Sec. 28: S $\frac{1}{2}$ SW $\frac{1}{4}$ (80 ac) Sec. 29: W $\frac{1}{2}$ (320 ac) | 400 |
| TOTAL 9,601 | | | | |

V. AUTHORITY

The authority for conveyance of state land is pursuant to AS 29.65 and the authority for the Final Finding and Decision is pursuant to AS 38.05.035(e).

VI. PLANNING, CLASSIFICATION, AND RELATED ACTIONS

All of the recommended actions in this decision are consistent with the mandate that all lands meet the requirement for 'VUU' land in AS 29.65 and that the recommended actions are consistent with the plan designations and management intent of the Kenai Area Plan.

The Plan Amendment and Land Classification Order that accompanied the PD are not included in this decision. All of the parcels (8) that require a plan amendment were dropped in this decision and will be the subject of a future plan amendment(s) action by DNR. Aspects of the required future action are identified in TABLE 3, 'Conditionally Approved Units for Conveyance.'⁶ It was determined that, to expedite the remainder of this decision, these units should be dropped from the current decision, although all of the information and public comments pertinent to those units can still apply to these eight units in a future plan amendment process. This action has been structured in such a way that no action (modification) of this decision will be necessary. In the event that the required plan amendments are fulfilled as intended in this decision, no modification of this decision will be required and conveyance of the parcels identified in TABLE 3, 'Conditionally Approved Units for Conveyance' can occur

VII. NOTICING

The public noticing requirements under AS 38.05.945 were met. The public notice announcing the Preliminary Decision (PD), Plan Amendment and Land Classification Order and soliciting for public comments was published on the Alaska Online Public Notice System at: <http://dnr.alaska.gov/commis/pic/pubnotfrm.htm> and on the State Municipal Entitlement site at: <http://dnr.alaska.gov/mlw/muni/> on January 6, 2015. The PD and associated maps were attachments to the public notice for review and comments were to be received on or before February 6, 2015 in order to ensure consideration.

The public notice was also mailed to those post offices in Anchor Point, Clam Gulch, Cooper Landing, Fritz Creek, Halibut Cove, Homer, Hope, Kachemak, Kasilof, Kenai, Moose Pass, Nanwalek, Nikiski, Nikolaevsk, Ninilchik, Port Graham, Seldovia, Seward, Soldotna, Sterling, and Tyonek and was asked to post the notice. Additionally, the notice was sent to the Kenai Peninsula Borough to various staff and to tribal governments.

VIII. DNR RESPONSE TO KPB COMMENTS

The following response to comments is separated into three parts: response to general concerns raised by the borough, response to borough concerns related to management units, and response to general public concerns.

⁶ A total of eight units (or portions of units) are affected in some manner by the decision to convey only those units that are consistent with VUU requirements and with the plan designations and management intent of the KAP. These include the following units or portions of units: 48A, 380H, 380K, 381, 382H, 401A, 401F and 410G.

A. DNR Responses to KPB General Issues

1. The borough states that the Kenai Area Plan (KAP or area plan) was used as the basis for determining whether selected land is conveyable to the borough. The borough maintains that this is inappropriate and that their municipal entitlement is governed first and foremost by AS 29.65, which made the borough's selections a vested right (1978).

DNR Response: It is appropriate that DNR used the area plan as the basis, in part, for decisions involving municipal entitlement. These plans establish land use classifications, which are critical to the determination if state land can be conveyed, and they often will make the determination of which state lands should be retained. Land use classifications are required (AS 38.04.065(e)) before land can be sold or conveyed (11 AAC 55.040(i)) and state statute requires that area plans make the basic determination of what state lands are appropriate for conveyance and which should be retained (AS 38.04.065(c)). Additional detail follows.

The area plan is the basis for most of the DNRs' decision-making, especially related to the Land Estate. AS 38.94.005, which expresses the fundamental policy of the state regarding the basis for the management of state land, states that the 'choice of land best suited for public and private use shall be determined through the inventory, planning, and classification processes set out in AS 38.04060-38.04.070.' This is further elaborated in AS 38.04.065. This section states that land use plans are to be developed for the management of state owned land (area plans are the same as land use plans.) 11 AAC 55.020 states that the classification of state land under AS 38.05.300 "will be based on a land use plan prepared according to AS 38.04.065 and 11 AAC 55.030." 11 AAC 55.030 states the components that a land use plan must contain. This includes, under subsection (c)(6), among other things, "management guidelines and stated management intent, representing department policies to guide the actions of the department when making land use decisions, directing land management and ensuring compatibility among competing land uses." The plan designations in area plans are converted to land use classification through a Land Classification Order. Area plans, then, are the basis for state decision-making, which is guided through plan designations, management intent, and management guidelines. It is also the basis for the development of land use classifications. However, the area plan, by itself, does not wholly determine if municipal selections should or should not be conveyed to a municipality. This aspect of an entitlement decision is determined by AS 29.95.050 which states, that entitlement selections are to be conveyed to if the municipality's interest outweigh those of the state. Said differently, entitlement selections can only be denied if the states interest (public interest) outweighs those of the borough, assuming that the land is properly classified.

It is appropriate that the area plan provide the basis for land use classifications, under the authorities stated above. However, it does not establish which of the various land use classifications are conveyable to a municipality and which are not. Pursuant to AS 29.65.030, requires that land that may be conveyed to a municipality be 'vacant, unappropriated, unreserved land' (VUU). VUU land is defined in AS 29.65.130(10) as particular types of land use classifications (i.e., agriculture, settlement, etc.). The land use classifications that are considered conveyable and non-conveyable are set by this section of statute. The state has correctly used the area plan as the basis for classifications and has applied the standards for VUU land

correctly. It is appropriate for DNR to use the land use plan for classifications and it is appropriate that the standards for VUU land be applied, as stipulated in statute.

The borough failed to mention that the importance of the vested right issue, identified in AS 29.65.040, is modified by a later part of the sentence which states, “are vested property rights that must be fulfilled as *provided in AS 29.65.050*.” The latter statute requires that the department make a determination as to whether a particular selection is appropriate for conveyance to a municipality. Such ‘rights’ do not ensure that a selection must be conveyed to a municipality. AS 29.65.050 requires adjudication of a municipal selection, and this process then determines whether conveyance would be appropriate. This process is the adjudication decision (this decision) that is the subject of the borough’s concern. The borough has certain ‘vested rights’ but they are not perfected until the DNR adjudication process determines that a parcel of selected land is appropriate for conveyance.

2. The land use designations and management intent in the KAP are not statutory classifications have been used to “further used to chip away at the KPB’s entitlement“. An example of this is that the KAP uses a more limited definition of Habitat than is used in Administrative code.

DNR Response: As indicated, land use plans are required by Administrative code to include management intent and management guidelines (see above). They are not arbitrary and the types of requirements included in the KAP are similar to the types of guidelines and intent languages used in other area plans, and have been used in DNR area plans and management plans for over 30 years. They are meant to provide the additional guidance to decision making that the land use classifications, because land use classifications only provide the most general management direction. Classifications (11 AAC 55.040) are used to identify “the primary use for which the land will be managed”. As such they indicate a general intent but do not provide the specificity that is necessary to direct land management decisions in a more definitive way that gives direction to how decision making should be made at a more detailed level or more precise scale. Plan designations, management guidelines and management intent provide this detail and are identified in Administrative Code as required.

DNR did not fabricate these management guidelines or management intent to ‘chip away’ at the borough’s municipal entitlement. They were developed through a long and rigorous process in the preparation of the KAP. The KAP went through extensive public review and was signed by the Commissioner as the basis for DNR decision making within the planning area of this plan. The management intent and management guidelines that are contained therein are appropriate and necessary to the management of state land. Review of this document will indicate that these management guidelines and management intent statement are applied to all of the state land, not just to those that are related to municipal selections. DNR strongly rejects the implication that these statements were developed to ‘chip away’ at the borough’s entitlement and is surprised that the borough would make such a pejorative statement.

More specifically to the Habitat designation, while it is true that the definition used in the KAP is different than that in administrative code, DNR and ADFG have always found it difficult to apply subsection (1) in this definition in 11 AAC 55.230. A methodology does not exist to determine how many or how diverse the number of species would be required to reach an “optimal sustained yield basis”. Instead, DNR has more often applied the second of the two

definitions, which is in (2), which states: Habitat is “a unique or multiple species of regional, state, or national significance.” The definition used by DNR in the area plan is different than both in some respects, and is more inclusive than the subsection (2) definition but less inclusive than the intent of the subsection (1) requirement. The areas that were identified were those areas where a limited, concentrated area of fish or wildlife species during a critical life-cycle occurs. The information on which DNR made its determination of Habitat areas was based on the best available technical information at the time and on the professional judgment of ADFG staff involved in the preparation of the KAP. If the borough thinks that DNR overreached in its assignment of important habitat areas the borough needs to be more specific in its complaint, particularly since DNR, in its review of the selections that are contained in this decision, were reviewed again with ADFG and they reconfirmed the material in the 2000 KAP. DNR rejects the argument that we used the Habitat definition in an arbitrary manner to thwart the entitlement selections of the borough. Areas were identified as Habitat based on available information, the technical judgment of ADFG, and areas were assigned the Habitat designation throughout the planning area based on this definition, not just the areas of the municipal selections, and were not developed to “thwart” the borough’s entitlement.

3. The borough contends that DNR used co-classifications to adversely affect the borough’s entitlement and that these co-classifications cannot be used to “diminish the KPB’s entitlement.”

DNR Response: DNR has traditionally used a number of classifications to identify the primary use(s) for specific management units. This has occurred over the past 30 years and this has been done to clarify how a management unit in an area plan is to be managed. The authority to impose co-classifications derives from AS 38.05.300 generally and more specifically in Administrative Code (11 AAC 55.040(d)); which states that up to three classifications may be applied⁷. DNR has the authority to classify and reclassify state land and can use up to three classifications. Classifications, used in this manner, represent the ‘primary uses for which the land will be managed’ (11 AAC 55.040(c)) and are co-equal in authority. DNR did not use these co-classifications to diminish the borough’s entitlement. When they were applied DNR did so in a fair and comprehensive fashion, applying specific co-classifications in a uniform and systematic manner, and reflecting the underlying resource associated with state land.

The co-classifications reflect the resources/uses of a specific parcel of state land and were applied throughout the planning area where conditions existed that would warrant a co-classification. DNR did not single out the borough’s selections when co-classifications were applied. Many state parcels are also affected by co-classifications. Examples of co-classifications affecting state land permeate the plan; a single example is unit 707 in Region 10. DNR did not impose co-classifications “intentionally” in order that ultimately one of the classifications would win and thereby undermine the borough’s vested rights.

These co-classifications were made in the context of the preparation of the KAP. Area plans establish the classifications for the plan area; by themselves they do not make the decision as to whether a parcel of state land should or should not be conveyed to a municipality. The

⁷ DNR, based on Administrative Code, has authority to apply up to three classifications. DNR rejects the argument that there is no authority for such classifications and rejects the argument that the ability to apply a dual classification lacks statutory authority.

determination of what constitutes VUU land for municipal entitlements and what land use classifications are conveyable and non-conveyable occurs outside the planning and classification requirements. Specifically they occur under the authority of AS 29.65.130. DNR assigns its classifications based not on whether we think the land should be conveyed or not conveyed to a municipality but on the inherent characteristics of the land. The decision process under AS 29.65.050 determines whether land should be conveyed to a municipality. In the reevaluation of state land that occurred in this decision, there were a number of times that plan amendments were proposed to change a classification, based on a re-review of information. This action is hardly disadvantageous to the borough.

As the borough is aware, DNR is required under statute (AS 38.04.005 and AS 38.04.065) to prepare land use plans for its lands. In the case of the Kenai Peninsula, this occurred through the KAP, which was adopted in 2000. It was appropriate for DNR to develop this plan and the classifications that derive from this plan have been re-reviewed and been determined to be appropriate. In a previous response to the 'vested right' issue we mentioned that while such rights exist, the perfection of that right occurs through a subsequent process under AS 29.65.050. That process determines whether it is appropriate to convey/not convey a selection to a municipality. Classifications developed in 2000 do apply to the selections made in 1978. These classifications were not intended to diminish the borough's entitlement but were established in a fair and non-arbitrary way through the area planning process.

4. Management intent statements do not have force and effect in terms of a municipal entitlement decision.

DNR Response: Such statements do have force and effect in an area plan. Such statements have been used by DNR in its area and management plans for 30 years and are necessary to the effective management of state land. A classification indicates the primary purpose of how land is to be managed. Management intent statements and management guidelines, recognized in Administrative Code (11 AAC 55.030(c)(6)), provide the more specific guidance that is necessary to give direction to decision making made by DNR. These statements apply to all of the state land within the planning area of the KAP, and are not just applicable to municipal entitlement selections. We agree with the borough that these statements, if they indicate that state land is to be retained, mean exactly that.

5. AS 38.05 is not applicable to municipal entitlements. DNR's belief that AS 38.05 governs the conveyance of municipal entitlement lands leads to the application of a set of rules that conflict with the borough's vested rights.

DNR Response: Until land is conveyed to the borough, state land within the general domain remains under the control of AS 38.05 provisions in terms of the general management of state land. However, such authorities do not apply to the adjudication decision process related to municipal entitlement selections. The procedures identified in AS 29.65 apply, especially those aspects under AS 29.65.010, 050, and .130. DNR did not use AS 38.05 authorities to make adjudicatory decisions on the borough's municipal entitlement. The borough's contention that

DNR applied such authorities and, as a result of that application adversely affected the adjudication process, is without merit⁸.

6. The borough contends that AS 38.05.035(e) gives discretion to DNR to enter into contracts and that we do not have the authority to imposed stipulations not otherwise required by law. It does not apply to the borough selection since they are vested rights (not contracts). Vested rights are not discretionary. This section of statute gives the authority to DNR to impose conditions that are related to contracts, but entitlements are not contracts. This is clearly inconsistent with AS 29.65 that prohibits conditions on the borough's vested rights.

DNR Response: Generally, DNR agrees that this section of statute applies to contracts and not to 'vested rights'; that we do not have the authority to impose stipulations that are not otherwise required by law. This authority is used, in the case of entitlement decisions, as the vehicle through which state land can be conveyed to a municipality. As stated, all disposals of state interests in land are required to have a written decision prepared on which the conveyance is based (entitlement decisions are a disposal decision). DNR used this authority in this strict context as the basis for conveyance and did not apply conditions from this section of statute, and the borough is incorrect to think that DNR did so. See also footnote #2. The requisite authority for imposing conditions derives from AS 29.65 and specifically from the definition of 'patent' in AS 29.65.130(6). In this subsection it clearly states that only those conditions that are required by law may be imposed in an entitlement decision. DNR is therefore within its authority to retain state land, require adherence to AS 19, and to impose AS 38.05.127 easements. The DNR decision only imposes these requirements or such requirements that the borough and the state both accept as appropriate to effectuate conveyance. In accordance to AS 29.65.130(6), it clearly gives the state the right to impose conditions that are required by law.

7. DNR has turned the requirement for the weighing required under AS 29.65.050 'upside down' by requiring the borough to show that its interests in ownership outweigh those of the state in obtaining lands.

DNR Response: This comment is reference to AS 29.65.050(c) which states: "The Director may disapprove a selection only upon a finding that the public interest in retaining state ownership of the land outweighs the municipality's interest in obtaining it." The borough is incorrect in its paraphrase of the statute and its meaning.

Under this section of statute, DNR is required to determine if the state's interest in retaining ownership is greater than the interests of the borough in obtaining state land. We agree with the borough that this section of statute presents a high bar for retaining state land. In the adjudication of the selections in this decision we applied this threshold requirement in the way described above, and for each municipal entitlement decision we performed this analysis. Where the decision was made to retain state land the reasons for this were explained, usually in considerable detail, in each of the TABLES (1, 2, 3, & 4) in the decision. An example would be

⁸ There are certain exceptions to this statement: specifically, AS 38.05.035(e) is used since before state land can be disposed out of state ownership, there must be a written decision. A municipal entitlement decision is such a decision and utilizes this section of statute to convey land to the borough. AS 38.05.127 and certain other requirements that as a matter of law are required in all disposals are also utilized.

unit 376 in Region 2, where there is a lengthy analysis of why the state determined the reason for retainance and a specific determination of whether a state (public) interest outweighed that of the borough.

8. It is incumbent on the state when adopting the KAP to make its plan consistent with the prior adopted KPB Moose Pass Comprehensive Plan. The state chose not to follow its recommendations, which identified the preferred use as Settlement.

DNR Response: The borough is incorrect in its assertion. Under AS 38.04.065(g) the requirement is the state takes into consideration the recommendations of a local plan. It requires DNR to be “consistent with municipal plans to the maximum extent determined consistent with the states interests and the purposes of this chapter.” DNR reviewed and considered the local plan(s) and although DNR is not required to follow such plans, review of the areas in KAP that the local plan covered will indicate that some of the recommendations in the area plan are derived from the local plan.

9. The area plan and the Kenai River Comprehensive Management Plan (KRCMP) treat the borough’s municipal entitlements as a ‘second-class obligation’, rather than a “prior and paramount statutory right vested in the KPB”.

DNR Response: The borough is incorrect and mistaken in its assertion. The two plans were aware of the selections at the time of their preparation -- particularly the KAP, which dealt with the municipal entitlement selections in an explicit fashion. DNR uses the area plans to review municipal selections and to determine the appropriate assignment of land use classifications and, if appropriate, make a recommendation as to whether a selection should be retained by the state or conveyed to a municipality. Review of the KAP will indicate that the plan did not evade the municipal entitlement but explicitly dealt with it. In most cases the plan would indicate if it was appropriate to convey land to the municipality if it was municipal selection, and would often classify the land as Settlement or Public Recreation. Examples are units 73 and 94A in Region 6. In some cases it would indicate that the land was to be retained. An example of this would be unit 82 in Region 6.

The borough’s assertion is without merit. DNR did not treat their municipal selections as a ‘second-class obligation’. The plan identified the municipal selections and made explicit recommendations regarding them. This is hardly “second-class” treatment. The adjudication of borough selections has occurred over the past 20 years and considerable acreage has been conveyed to the borough. It is difficult to argue that we treated the borough’s entitlement as a ‘second class obligation.’

Previous responses have dealt with the issue of “vested right” and this evaluation and are not repeated here, except to state that the state did ensure that the borough selections were identified in the state’s land Administration System, which essentially resulted in the segregation of the selections from state actions over the period prior to adjudication.

B. Responses to Issues of a General Type Associated with Individual Units.

This section of the issue response deals with those issues raised by the borough in its letter that are specific to several management units that are identified as of particular concern to the

borough. There are additional responses to more specific issues but this is contained in Section C, 'Responses Organized by Management Unit'.

1. Igitarod National Historic Trail: In certain instances the KAP and the PD both indicate that a conveyance is subject to the reservation of a 1000-foot corridor, and the remainder of the parcel (or a portion of a parcel) is conveyed to the borough. In other instances where the INHT is cited it is given as one of the reasons for the state retaining ownership of state land. The borough has land management authority and is a competent land manager. There is no evidence indicating that the borough's use of land would be inconsistent with the INHT.

DNR Response: DNR does not dispute that the borough might manage land conveyed to them and affected by the INHT in a compatible manner. That said, this is only one of the reasons given for retaining management unit 380G; the other reasons include a system of important trails, the presence of brown bear movement corridors, important spawning and rearing habitat for King, Sockeye, and Coho salmon, important habitat for other species, and is an important scenic viewshed visible from the Seward Highway. The recent evaluation of classifications in the KAP, which included this management unit, confirmed the presence of these attributes in this unit and reaffirmed the co-classification of Habitat and Public Recreation in the area plan. It is the system of resources and values that comprise this unit that make it valuable and appropriate for state retainance.⁹ The INHT is only one of those resources, and the determination of whether to retain this area was based on a wide variety of resources and values.

2. Dual Classification: The borough states that the rationale for state retention of unit 380G (and other units) is that it is in a non-conveyable classification 'inconsistent with the KAP and KRCMP' and therefore an overriding state interest exists.

DNR Response: The issues of dual classification, in general, are discussed previously and the DNR response is also appropriate here.

The borough is in error in its statement: the Habitat and Public Recreation classifications are consistent with the KAP and KRCMP. (Classifications are not used in the KRCMP so the borough's comment is irrelevant relative to this plan.) The conclusion that because this unit is co-classified Habitat and Public Recreation an over-riding state interests exists' is not exactly correct¹⁰.

In the determination as to whether an area should be conveyed to the borough, DNR made a determination of state verses borough interest. This was done for each parcel under consideration in this decision and is included in the third and fourth columns on Tables 1, 2, 3 & 4 in the PD. This analysis was done independently of the classification in order to establish a conclusion as to whether a state interest exists that outweighs that of the borough and was conducted to meet the requirements of AS 29.65.050.

⁹ See also the section on responses to individual management units that follows. This section indicates that a portion of management unit 380G, which also contains the INHT, is appropriate for conveyance to the borough.

¹⁰ DNR agrees that the Habitat classification is not non conveyable but the issue here is whether this classification, alone, establishes the basis for the DNR to retain this unit.

3. Primacy of borough selection based on date of selection. The borough contends that because it made selections some time ago and in advance of the area plan that this, alone, establishes the appropriateness of the conveyance and mandates conveyance.

DNR Response: The argument that the borough made its selections many years ago and that this trumps statute and area plans is specious. Nowhere in the Alaska Statutes does it provide for the assertion made by the borough. In fact, it says that decision on conveyances are to be made through a mandated process identified in AS 29.65.050 and that the state must prepare a written decision that approves the conveyance of state land out of state ownership under AS 38.05.035(e). Further, statute establishes that all land conveyed to the borough must constitute VUU land (AS 29.65.030) and must be classified in a particular manner (AS 29.65.130). Only when these factors are considered and adjudication concludes that the conveyance of state land to a borough meets the standards and processes mentioned previously can it be concluded that conveyance is appropriate and should occur. It is not an arbitrary process as described by the borough but one that is identified and mandated by statute.

4. Presence of Brown Bears. The borough contends that brown bears numbers have doubled and that sufficient habitat exists to ensure their continuance. The borough also contends that the development plans that might be prepared by the borough would ensure that such development would not be inconsistent with the maintenance of the brown bear populations. The borough also contends that not all areas of state land must be retained to ensure the maintenance of bear movement corridors.

DNR Response: The fact that the population of brown bears has doubled does not mean that land managers, federal, state, and local can no longer be concerned about the maintenance of the brown bear species. Nor can it be concluded (since no study has been done on the issue) that sufficient brown bear habitat exists. The borough contends that the development that it might authorize would not harm the bear population. That said, the borough, as a matter of policy, has chosen to not establish preferred development patterns through zoning, which is the traditional and typical way that municipalities throughout the country create desirable development patterns and enforce their plans through enforcement action. Without this technique the borough cannot ensure that development will conform to their intentions, and the state cannot make its decisions on the basis of intentions, however good they may be. We do agree, however, that not all areas of state land need to be retained to ensure the continued viability of the brown bear population. In fact, we have recommended that certain parcels important to brown bear movements be conveyed to the borough. An example is unit 48A in Region 7.¹¹

5. Seward Highway Corridor Management Plan (SHCMP) The borough argues, in the context of management unit 380G, that the basis for the state retaining the land in this unit was based, at least in part, on the presence of a scenic viewshed on the eastern side of Trail Lakes, which could be viewed from the Seward Highway. “The rejection narrative also assumes the KPB cannot or does not hold precious scenic value” The borough states that their intent to preserve scenic values is no

¹¹ In this instance, DNR has recommended the conveyance of state land to the borough where such land is adjacent to riverine bear movement corridors.

less than that of the state's and wonder why the state would assume that the state would have a higher interest in preserving these values than the borough.

DNR Response: DNR does not question that scenic values are not important to the borough and we have never assumed that state scenic values are necessarily different than and superior to those of the borough. As the borough indicates, scenic values were identified as one of the values identified in the "rejection narrative"¹² for unit 380G. The answer for this issue is similar to that for the INHT issue (#1). The description in this column identifies a number of values – scenic, trail, habitat, wildlife and habitat, and recreation. This review confirmed that presence of a set of values that warrant a co-classification of Habitat and Public Recreation. The conclusion of this analysis did not hang its hat on any one factor but on the presence of a set of complementary resources and values. See the PD narrative for unit 380G for a complete discussion of the factors involved. The PD analysis confirmed the values that were previously identified in the KAP. The continued classification of this unit as Habitat and Public Recreation was concluded to be appropriate. And that it would be appropriate to retain this parcel in state ownership based on the presence of a significant state interest.

6. KRCMP and KAP. Management unit 380G (and by implication other parcels) was rejected because the KAP indicated it was proposed for KRSMA (Kenai River Special Management Area). "Even with the KPB's prior and paramount selection under AS 29.65 DNR holds hostage remaining land that has not been appropriated to these interests or agencies. The borough should not be deprived of lands it has selected based on the possibility of their inclusion in KRSMA.

DNR Response: The borough comments are incorrect for a number of reasons. First, the borough does not have a paramount or a prior guarantee of lands. Before lands can be conveyed to the borough, the selections must be adjudicated under AS 29.65 and a determination made under this authority that conveyance is appropriate before conveyance can occur. Second, the borough selections do not constitute a "prior or paramount selection" under AS 29.65 compared to other entitlements. For example, land within the Kenai Borough has been conveyed to the University of Alaska and the Mental Health Trust before the adjudication of these selections, typically because of legislative or administrative settlements which established a superior right before the adjudication of the borough's entitlements. For example, the Mental Health Trust Authority received extensive land in the borough as a result of the 1994 mental health settlement legislation.

The borough's selections are not paramount in the way that the borough describes. (Ironically, one of the principal bases for the Mental Health Settlement was to protect municipal entitlement selections by the municipalities that were Original Mental Health Trust Land.) DNR could not convey land affected by the then existing litigation until the 1994 settlement legislation occurred. Subsequent to that, and the borough is aware of this, DNR proceeded to convey land to the borough in fulfillment of their entitlement. Third, the state has a strong interest in retaining lands adjoining the principal drainage ways that flow into the Trail and Kenai Rivers, and it was

¹² This is a reference to the column in TABLES 1, 2, 3, and 4 identified as "DNR Reason(s) for Determination of Action". This is not a "rejection narrative" and it is inappropriate for the borough to characterize it as such. This table explains why DNR made the decision it did on whether a state interest exceeded that of the borough for a particular selection. An explanation is provided for selections that are to be conveyed to the borough as well.

appropriate for the state to recommend that these areas be retained in the two plans that affect the Trail Lake and KRSMA areas. The borough may be 'deprived' of these lands but, if they are rejected as proposed, the state must compensate the borough through the provision of other state land. Finally, the borough's interest in this parcel is similar to the states: the local plan for this area provides for the continuation of this area as public recreation land. The borough is not 'losing' anything since its policies that would affect this area are similar to the states'.

C. Comments on Individual Units: Public (and some Borough)

| Region | Unit | Issue | Commenters' Recommendations | Response |
|--------|------|---|-----------------------------|--|
| 2 | 380G | <p>Borough maintains that the area along the lakeshore may be valuable to the Moose Pass Community. They expect a local planning effort to occur over the next several years and that portions of the area along the lakeshore may be appropriate for various forms of community development or recreation. They do not want the state to take action on this area (which is outlined on the decision map for this area) until this local planning effort has been completed.</p> | | <p>DNR acknowledges that it would be inappropriate to preclude this analysis through the rejection of this area in this decision (which would have the effect of preempting this analysis.) DNR will conditionally approve the conveyance of this area if the following conditions are met: the borough will initiate and complete a local plan for this area within a 5-year time period from the date of the adoption of this decision; that the plan concludes that this area should be developed for community recreation or development purposes, and based on that result, the borough initiates and an amendment to the KRCMP and the KAP and is successful in that effort. The area will remain classified Wildlife Habitat and Public Recreation during that time and will be managed by DPOR until the approval of the aforementioned amendments. If the local plan and amendments are not completed within the five year period or if the outcome of that process is the inability to amend either of these plans, these selections are rejected and the land remains with the state. ADOT/PF, ADFG, and ADNDR shall be consulted throughout the planning process. See further detail in the Plan Amendment portion of this decision.</p> |
| 2 | 380J | <p>Borough maintains that the imposition of a 200-foot retained area by the state adjacent to the OHWM of Trail River would impose an undue and difficult burden in terms of management and survey costs. Instead, they recommend the imposition of a requirement to adhere to Recommendation 4.5.4.5 of the KRCMP, which they believe would be equally effective in meeting the objective for the protection of the riparian area adjacent to Trail River but remove the onerous borders of retained land. Several individuals have expressed concern against the conveyance of lands within 200-foot of the river but are in support of conveying this unit to the KPB.</p> | | <p>DNR agrees to the borough's proposal and will revise the recommendation in the decision to impose the aforementioned requirement and drop the retained land requirement.</p> |

| Region | Unit | Issue | Commenters' Recommendations | Response |
|--------|------|---|--|--|
| 2 | 380K | <p>The borough has raised two issues: one relates to the issue of retained land along Trail River (see unit 380J for discussion). The other is that they want to own and manage this land for the purposes of public recreation and the protection of the heritage site that occurs in this unit.</p> | | <p>DNR will agree to the solution described in unit 380J and will agree to the request by the borough for eventual ownership. However, DNR is concerned that this unit, which has important public recreation and heritage values, not be developed for any other purpose. Accordingly, DNR will agree to the conditional approval of this unit subject to the following conditions: that the borough classified this area Public Recreation or Heritage Resources within an 18-month period and will agree to maintain that classification. This action must be completed within an 18-month period from the date of adoption of this decision. In the event that both actions are fulfilled, DNR will initiate a plan amendment to effectuate conveyance. If these actions do not occur, the land will remain in state ownership and managed in the manner prescribed in the KAP. See further detail in the Plan Amendment portion of this decision.</p> |
| 2 | 380N | <p>Borough maintains that the imposition of a 200-foot retained area by the state adjacent to the OHWM of Trail River would impose an undue and difficult burden in terms of management and survey costs. Instead, they recommend the imposition of a requirement to adhere to Recommendation 4.5.4.5 of the KRCMP, which they believe would be equally effective in meeting the objective for the protection of the riparian area adjacent to Trail River but remove the onerous borders of retained land.</p> | | <p>DNR agrees to the borough's proposal and will revise the recommendation in the decision to impose the aforementioned requirement and drop the retained land requirement.</p> |
| 2 | 380H | <p>Several individuals have expressed support that this unit should be retained in State ownership as written in the Kenai Area Plan Draft Amendment. These individuals object to any conveyance due to dispersed public recreation opportunities. Kenai Hydro (KHL) has an existing Federal Energy Regulatory Commission (FERC) Preliminary Permit (P-13212) in places to assess the feasibility of the development of a hydroelectric project in the Grant Lake/Grant Creek drainage.</p> | <p>If conveyed, the individuals recommend that a 50-foot non-development/public access buffer around Vagt Lake (consistent with the requirement for this easement adjacent to navigable water) be implemented. They also recommend that development of the National Iditarod Historical Trail be protected and supported; and public recreation access to other trails including</p> | <p>The state agrees that protection should be provided to the circumference of Vogt Lake, and the decision will be modified to include a requirement for an along easement. We also agree that the state should reserve a 1000-foot area for the INHT. The state does not possess the authority to create a non-development area around Vogt lake land. We also believe that the borough will maintain public recreation access of the lands conveyed to them and that it is unnecessary to impose specific access connection requirements.</p> |

| Region | Unit | Issue | Commenters' Recommendations | Response |
|--------|------|---|--|---|
| 2 | 381 | Kenai Hydro (KHL) has an existing Federal Energy Regulatory Commission (FERC) Preliminary Permit (P-13212) in places to assess the feasibility of the development of a hydroelectric project in the Grant Lake/Grant Creek drainage. | Borough recommends that the lower portion of unit 381, from Grant Creek to the boundary of unit 380H be conveyed to the borough as well. | DNR agrees that it is probably appropriate to convey this small area south of Grant Creek, so that the area south of this stream can be managed as a single entity (within unit 380H). The revised maps indicate the change in boundary. Additionally, DNR has modified the initial decision to require that the borough reclassify this unit to Public Recreation. See TABLE 3, 'Conditionally Approved Units for Conveyance' for details. A plan amendment will be required for conveyance to occur. |
| 2 | 382H | Borough maintains that this unit is important to community development and growth of the Moose Pass community. There is a current logging road in this unit, a cleared area in the central part, and portions of the unit are used for recreation by this community. They believe that bear movement corridors can be maintained through the use of Recommendation 4.5.4.5 and through careful planning of the unit. However, several commenters recommended that this area remain in state ownership and be managed according to the requirements of the KAP. | | DNR remains concerned that bear movement corridors are not yet identified and therefore not effectively protected. We are also concerned that the unit be used for recreation purposes and not converted to other uses, at least not for the next 15 years. To this end, DNR will conditionally approve this area for conveyance subject to the following conditions and a plan amendment: that the borough classifies this unit as Public Recreation and that this occurs within an 18-months from the date of adoption of this decision and that the borough initiates and concludes a planning process for this unit that evaluates, among other things, east-west bear movement corridors and provides for their protection. ADFG is to participate in this analysis. The borough is subject to Recommendation 4.5.4.5 in the KRCMP. For further detail, see TABLE 3, 'Conditionally Approved Units for Conveyance.' A plan amendment will be required for conveyance to occur. |
| 2 | 400 | An individual maintains that this unit should be retained in state ownership because of its valuable recreation purposes, specifically Nordic skiing. Several individuals maintain that this unit should be conveyed to the borough as written in the PD. | Individual recommends that the unit be retained in State ownership as is written in the Kenai Area Plan. | This unit is classified Settlement and DNR has no basis for retaining it since the classification is appropriate for conveyance and there is no over-riding state interest. |
| 2 | 401A | The borough requested in a recent correspondence (February 18, 2015) that a much larger area be conveyed, which would be in addition to that area of | | DNR has recently re-reviewed the values of this unit with ADFG and has concluded that the habitat values of this unit are significant and warrant the Habitat designation. The unit will be retained in state ownership, except for the 40-acre tract that provides connection between units 380H and 380I. |

| Region | Unit | Issue | Commenters' Recommendations | Response |
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| | | <p>40 acres now recommended for conveyance. This area is described as a portion of this unit within T4N, R1E, Section 19, W$\frac{1}{2}$NE$\frac{1}{4}$, E$\frac{1}{2}$NW$\frac{1}{4}$, NE$\frac{1}{4}$SW$\frac{1}{4}$, W$\frac{1}{2}$SE$\frac{1}{4}$SW$\frac{1}{4}$, W$\frac{1}{2}$NW$\frac{1}{4}$SE$\frac{1}{4}$. The borough asserts that the revised boundary lies outside drainages identified by ADFG as important natural corridors east and west. The 1000-foot Iditarod NHT corridor provides natural movement north and south through this unit as does the remaining easterly portion of the unit which provides a 1,320-foot wide corridor that runs north and south between the drainages. The borough believes that this request, being only one-third of unit 401A, balances the wildlife concerns expressed by ADF&G with additional community interests that the borough seeks to advocate for and also provides for logical boundaries that provide for effective land management.</p> | | <p>In the review of a previous borough proposal ADFG commented: "staff reviewed the KPB's proposal for DNR to convey the northern portion of unit 401A near Ptarmigan Creek. The Kenai Area Plan identifies this unit as being an important bear movement corridor, as well as habitat for otters, moose, sheep, and anadromous fish species. Topographic features such as the Trail lakes, Kenai Lake, Ptarmigan Lake and the adjacent mountains, limit the availability of movement corridors between habitat types. The Ptarmigan and Falls creek drainages provide natural corridors from the east to the west. If this portion of unit 401A is conveyed and subsequently developed, wildlife/human interactions will occur.</p> <p>"ADF&G recommends the entire parcel remain in state ownership to protect these important movement corridors."</p> <p>DNR has since confirmed with ADFG that their initial recommendations on the habitat values of this unit is still valid and appropriate and has reconfirmed their recommendation to retain this land in state ownership.</p> <p>DNR's concern with this proposal is similar to that of ADFG's but is also somewhat different. DMLW does not believe that there is sufficient reason to warrant the reclassification of this area from Habitat to Settlement. DNR worked with ADFG to determine whether the values and resources identified in the KAP have changed (since this might warrant a different designation/classification). Instead, these same resources were found to be present and therefore the basis for reclassification does not exist.</p> <p>Additionally, DNR has modified the initial decision (pertaining to the small 40 acre area) to require that the borough reclassify this unit to Public Recreation. See</p> |

| Region | Unit | Issue | Commenters' Recommendations | Response |
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| 2 | 410B | <p>Borough maintains that the configuration of this unit is incorrect and that it should encompass the entire area (not including the gravel pit associated with unit 409A) to the section boundary.</p> <p>Several individuals have expressed concerns about the view shed in the area because development restrictions within the Seward Highway Scenic Corridor Plan do not address lands this far away.</p> | <p>Borough recommends that the boundary of this selection be revised to include the area south to the section line.</p> <p>The individuals recommend that the unit be retained in State ownership because of the prominent view shed and that the important public recreation values be maintained for the extensive public use the area receives.</p> | <p>TABLE 3, 'Conditionally Approved Units for Conveyance,' for details. A plan amendment will be required for conveyance to occur</p> <p>DNR reviewed the land status associated with this unit and has determined that the current configuration, depicted in the entitlement maps, is correct. No change.</p> |
| 2 | 410E | <p>Several individuals oppose the conveyance of this unit because it is highly valued public recreation land used by skiers and hikers. There are concerns that these uses would be overlooked to accommodate other purposes within the KPB. ADF&G maintains that this unit should remain in State ownership, and that the current KPB stream protection ordinance does not provide adequate protection for this habitat.</p> | <p>If conveyed, the individuals recommend the NW¼ of unit and lands west of the Sterling Highway be transferred to KPB and impose a minimum of 50-foot easement for public access and habitat protection along Summit Lake and associated streams or up to 200-feet as recommended by ADFG. The protection easement is recommended because the KPB ordinance for protecting habitat along anadromous streams does not apply to Upper Summit Lake as these waters are not considered anadromous.</p> | <p>The state has imposed the requirement that the borough shall adhere to the requirement of the Seward Highway Corridor Partnership Plan (SHCPP). This should be sufficient to protect the scenic values of this unit. And while there is some recreation use of the property, DNR believes that the borough can adequately manage this unit for recreation use and that this management will be at least similar to that of the state.</p> <p>The state recognizes that this unit has a variety of values, including scenic, recreation, and hydraulic. DNR is required in its decision making involving municipal entitlements, to determine if there is a state interest that outweighs that of the borough before the land can be retained by the state. In its consideration of this unit, DNR concluded that the borough could manage for the recreation values and uses of this area as effectively as the state and therefore the threshold for retaining state land was not met. However, the decision does impose the requirements of the SHCPP and does impose an along easement along the lake and the outlet stream. DNR does not have the authority to impose the requirement for a 200-foot easement along streams and lakes in entitlement decisions.</p> <p>The state has postponed a decision of this unit, subject to a subsequent and separate plan amendment.</p> |
| 2 | 410G | | | |

| Region | Unit | Issue | Commenters' Recommendations | Response |
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| 2 | 410C | Several individuals have expressed support that this unit should be retained in State ownership as the most effective way to maintain prominent views and natural features consistent with SHCPP, public access for year-round public recreation use and habitat protection of wetlands, creeks and lakes. ADF&G also maintains that this unit should remain in State ownership, and that the current KPB stream protection ordinance does not provide adequate protection for this habitat. | ADF&G recommends that land within 200-feet of the OHW of Lower Summit Lake, Summit Lake, Canyon Creek and Colorado Creek be retained in State ownership, current KPB protection ordinance does not provide adequate protection | DNR does not agree that the state should retain this unit since there is no overriding state interest, but agrees that it is appropriate to provide a 100-foot buffer along the waterbodies that are noted but lacks the authority to do so. The decision, however, imposes an along easement on public waterbodies and the requirements related to the SHCPP, which and this should be effective in protecting the area of the scenic viewshed. |
| 2 | 410D | Several individuals have expressed support that this unit should be retained in State ownership as most effective way to maintain prominent views and natural features consistent with SHCPP, public access for year-round public recreation use and habitat protection of wetlands, creeks and lakes | | There is no overriding state interest present in the unit and the unit is classified Public Recreation, a conveyable land classification. Further, DNR believes that the state can manage this area as effectively as the state. An along easement is provided for all public waterbodies. |
| 2 | 401E | Several individuals have expressed support that this unit should be retained in State ownership as most effective way to maintain prominent views and natural features consistent with SHCPP, public access for year-round public recreation use and habitat protection of wetlands, creeks and lakes | | There is no overriding state interest present in the unit and the unit is classified Public Recreation, a conveyable land classification. Further, DNR believes that the state can manage this area as effectively as the state. An along easement is provided for all public waterbodies. |
| 2 | 380I | Several individuals have expressed support for the conveyance of this unit to the KPB. | Several individuals recommend that development of the National Iditarod Historical Trail be protected and supported; and public recreation access to other trails including Crown Point Trail be maintained. | This unit is classified Settlement and is appropriate for development. A requirement for the reservation of a 1000-foot area for the thread of the INHT will be included in the decision. The application of SHCPP is inappropriate since the unit is situated some distance from the Seward Highway and the requirements of that plan would not apply. |
| 2 | 380J | Several individuals support the conveyance of this unit to the KPB, but object to the conveyance of lands within 200 feet of the river. | Individual maintains that the unit should be conveyed to the KPB, however; they recommend that the conveyance of land within 200 feet of the river be rejected. | The area within 200 feet of Trail River will be protected; the requirement for retaining 200 feet from OHW from Trail River will be changed to a requirement that requires the borough to conform to requirement 4.5.4.5 in the KRCMP. This requirement should be effective in protecting the area adjacent to Trail River. |
| 2 | 401A | Several individuals maintain that this unit should be conveyed to the KPB. | Individuals support this conveyance as written in the State Preliminary Decision. | |

| Region | Unit | Issue | Commenters' Recommendations | Response |
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| 2 | 401B | Several individuals maintain that this unit should be conveyed to the KPB in accordance to the balance as written in the State Preliminary Decision. | Reject conveyance of lands within 200 feet of Ptarmigan Creek, support conveyance to KPB of the balance as written in the PD | Ptarmigan Creek does not occur in this unit: it only touches it on the north side of the unit. |
| 2 | 380C | Several individuals oppose the conveyance of lands within 200 feet of Falls Creek. | Several individuals recommend that the conveyance of lands within 200 feet of Falls Creek be rejected. | Because of the configuration of this creek DNR does not expect development to occur within the first 100-foot from OHW on this creek and therefore the imposition of such a set back requirement is inappropriate. |
| 2 | 382H | Several individuals have maintained that this unit should remain in State ownership as written in the Kenai Area Draft Plan Amendment. | | |
| 2 | 410F | Several individuals have maintained that this unit should only be conveyed to the KPB if specific stipulations are put in place. | These individuals recommend that this unit be conveyed only with the intent and necessary stipulations to concentrate any future development with the already existing development, manage the area consistent with the Seward Highway Corridor Partnership Plan, establish habitat protections of 200-foot for waters and maintain public access to lands beyond. | The only area being conveyed to the borough is that small triangular area adjacent to the Seward Highway on the east side of that road. This is a level area that is appropriate for development. The remainder of the unit is being retained by the state. The state has postponed a decision of this unit, subject to a subsequent and separate plan amendment. |
| 2 | 400 | An individual has maintained that this unit should be retained in State ownership because of its valuable recreation purposes, specifically Nordic skiing. | Individual recommends that the unit be retained in State ownership as in written in the Kenai Area Plan. | |
| 3 | 368 | Several individuals have expressed support that this unit be conveyed to the KPB as written in State Preliminary Decision. | The individuals recommend that buffers for the protection of identified wetlands, anadromous waters, lakes, and established trails within the unit be implemented. | The borough has relinquished most of this selection, including the high value lake and wetlands areas in sections 7 and 18. These areas will be retained by the state. A 50-foot along easement will be imposed along the lakeshore. Existing trails of record (the USFS trail adjacent to the lakeshore) will be reserved to the federal government. |
| 3 | 371A | Several individuals object to the conveyance of this unit to KPB because the area is valued in its current state for dispersed recreational opportunities (INHT, various trails, mountain biking, winter ski touring, fat biking, and various other year round activities) | The individuals recommend that this unit remain in State ownership and the current land classifications of PUR and WHB are maintained. | This unit is being retained in state ownership. |

| Region | Unit | Issue | Commenters' Recommendations | Response |
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| 3 | 371B | Several individuals object to the conveyance of this unit to KPB. This unit appears to contain all or a portion of the Divide Nordic Ski Trails System, which receives heavy winter and summer use. The trails provide access to power line ROW and Forest Service trail system; the unit is highly valued under its current management. | The individuals recommend that this unit be retained in State ownership and land classifications as PUR as well as public access | This unit is classified Public Recreation (a conveyable classification) and there is no overriding state interest that would justify retaining it by the state. That said, the area of concern west of the Seward Highway that contains importance recreation areas has been relinquished by the borough and this area will be retained by the state and managed for its recreation values. |
| 6 | 89 | Though this until provides important brown bear, black bear and swan habitat, ADF&G has no objection to the conveyance of this unit. | ADF&G has no objections to the conveyance of this unit to the KPB. | Additional discussions with ADFG have indicated that they are not particularly concerned with the conveyance of a small 40 acre piece that is of interest to the borough. The borough has dropped the majority to this selection, particularly to the north and south of the small center area that is being conveyed. |
| 6 | 71 | ADF&G continues to maintain that this unit should be retained in State ownership. This unit contains high concentrations of brown bear and moose along the riparian corridor along Slikok Creek; the creek also provides important habitat for anadromous fish species such as coho, king, pink and sockeye salmon, as well as, resident Dolly Varden. Sport fishing also occurs along the creek. They also maintain that the current KPB protection ordinance does not provide adequate protection for habitat. | ADF&G recommends that this unit remain in State ownership; however the Kenai Area Plan states that the land is available for conveyance to borough. | This unit is classified Public Recreation, a conveyable classification, and although there are significant resource values that are present in the unit, they do not warrant a Habitat designation. Nor is there an overriding state interest associated with this unit that would warrant retaining it. |
| 7 | 329 | ADF&G maintains that this unit should be retained in State ownership because it provides important habitat for anadromous fish species, such as coho, king, and pink salmon, Dolly Varden, and steelhead trout. They maintain that the current KPB protection ordinance does not provide adequate protection for this habitat. | ADF&G recommends that the area 200-feet from the ordinary high water mark (OHW) of the North Fork Anchor River and its tributaries be retained in state ownership. | This unit is being relinquished by the borough and will be retained in state ownership. |
| 7 | 314 | ADF&G maintains that this unit should be retained in State ownership because the Chakok River is unique in the Anchor River drainage in that it supports steelhead trout populations; most of the uplands along the river are already conveyed out of State ownership. They maintain that the current KPB stream protection ordinance does not provide adequate protection for this habitat. | ADF&G recommends that unit be retained in state ownership to protect the unique fish habitat found in the unit. | This unit is being relinquished by the borough and will be retained in state ownership. |

IX. DISCUSSION AND FINAL FINDING AND DECISION

This Final Finding and Decision (FFD) determines that it is in the best interest of the state to *convey* 5,282 acres of state land with management authority transferred to the borough upon the effective date of this decision. DNR has determined that there are no overriding state interests in retaining these selections and the conveyance to the KPB is consistent with the requirements for conveyance under AS 29.65, and the management intent requirements of the Kenai Area Plan.

The lands now identified as *conditionally approve/postpone* (TABLES 3 & 4) include six (6) units in Region 2; a portion of 381, 380H, 382H, 380K, and a portion of 401A, 410E, unit 410G. If the conditions for conveyance are met within the time period specified in TABLE 3 for these units, they are intended to be conveyed, subject to a plan amendment to be initiated by DNR at that time. Similarly, 380G may be conveyed, but this action is dependent on amendment of the KAP and KRCMP, among other requirements. Also included in lands to be conditionally conveyed is a portion of unit 48A in Region 7. A plan amendment will be required to convey this area. Until conveyed, these lands will remain in state ownership and management. If they are not conveyed, they will remain in state ownership and retain the current classifications and management intent in the KAP and KRCMP. If these lands are conveyed to the KPB, the borough will receive equitable title at such time and, when surveyed, the determined net chargeable acreage will be credited towards their entitlement. They will be subject to the applicable conditions, restrictions and reservations as listed in the PD and as listed below.

This decision *rejects the conveyance of* 24,692 acres. The reasons for rejection vary in that the land selections are either not state owned, the selection is not properly classified or is inconsistent with the management intent requirements for a specific management unit in the KAP or KRCMP, or/and a significant state interest exists that warrants retaining the land in state ownership.

Although there were few changes in the decision that involved changing the status of units from conveyed to not conveyed, or vice versa, the amount of state land to be conveyed to the borough dropped significantly, from 16,053 acres to 5,282 acres. This drop resulted from the relinquishment of approximately 9,601 acres of municipal entitlement selections by the borough. The relinquished selections will remain state land.

This FFD modifies the PD as outlined in the Recommended Actions and Conditions, Restrictions, and Reservations sections of this decision.

The following are the findings relative to this decision. I find that:

1. It is appropriate to *convey* approximately 5,282 acres (TABLE 2) of state land to the KPB because the interest of the state to retain the land does not outweigh the interests of the borough to obtain it.
2. It is appropriate to *conditionally approve/postpone* 3,369 acres (TABLE 3 & 4) of land selection listed in TABLE 3 for the reasons stated in the table and in the conditions stated above. The decision to convey the parcels in TABLE 3 is deferred to a separate and subsequent plan amendment. However, if the plan amendment(s) determines that it is appropriate to delete management intent statements that require that the state retain land or it

is appropriate to reclassify the unit(s) to a conveyable, VUU classification, these units are then conveyed to the borough under the terms of this decision.

3. It is appropriate to *reject* 24,692 acres (TABLE 1 & 5) of the borough land selections for the reason of the classifications affecting them are not consistent with the requirements of VUU lands under AS 29.65.130(10), a management intent or guideline for a specific management unit in the KAP or KRCMP precludes conveyance, or/and a significant state interest exists and it was determined that the interests of the state outweigh those of the borough.

The findings presented above have been reviewed and considered. The Public Notice has been accomplished in accordance with AS 38.05.945. The case files have been found to be complete and the requirements of all applicable statutes have been satisfied. I find that it is in the best interest of the State to proceed with the *conveyances* and *conditionally approved/postpone* conveyances identified in this FFD to the borough under the authority of AS 29.65.010 and *reject* certain borough land selections for those reasons identified in this decision.



Recommended by:
Mary Hermon,
Natural Resource Specialist
Municipal Entitlement Unit

2/24/15
Date



Approved by:
Bruce Phelps, Section Chief
Resource Assessments & Development

2/24/15
Date

ATTACHMENTS

- Overall Vicinity Map
- Vicinity Maps: 2, 3, 6, & 7
- Maps: Region 2, Maps 1-5
- Region 3, Maps 1, 2
- Region 6, Maps 1, 2
- Region 7, Maps 1-6

APPEAL PROVISION

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received in writing within 20 calendar days after the date of the issuance of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to Mark Myers, Commissioner, Department of Natural Resources, 550 West 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov.

If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the department on the 31st day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court (11 AAC 02.020(a) and (b)). A copy of 11 AAC 02 may be obtained from any regional office of the Department of Natural Resources.