

Navigable Rivers and Lakes

Management Intent of Navigable Waterbodies

Background

The intent of the plan is to designate and provide management intent for the shorelands under all navigable waterbodies. There are so many navigable rivers and lakes in the planning area that it is not practical to state the management intent for each individual waterbody. Therefore, the plan identifies general management intent and designations for most of the waterbodies within the planning area. In some cases, however, specific designations are identified for a particular waterbody because of the size, uniqueness, or particular values and functions of a river or lake.

The term “shorelands” is defined as land belonging to the state which is covered by non-tidal water that is navigable under the laws of the United States up to the ordinary high water mark as modified by accretion, erosion, or reliction (AS 38.05.965). See Figure 1-1 at the beginning of Chapter 1 for a diagram that illustrates the differences between shorelands, submerged lands, and uplands.

Shorelands are not identified on the plan designation maps. Identification of all such waterbodies is impractical on maps of the scale used in this plan. *The DNR records on navigability and hydrology must be consulted in order to determine whether a specific stream or lake is likely to be navigable.* These records are available in the Public Access Assertion and Defense unit in the Division of Mining, Land and Water in Anchorage. More information on navigability policy can be found on the DNR website.

Public Trust Doctrine

The Public Trust Doctrine provides that public trust lands, waters and living natural resources in a state are held by the state in trust for the benefit of all the people, and establishes the right of the public to fully utilize the public trust lands, waters, and resources for a wide variety of public uses. Each state has the authority and responsibility for managing these public trust assets to assure the public rights are upheld.

The Public Trust Doctrine applies whenever navigable waters or the lands beneath those waters are altered, developed, conveyed, or otherwise managed. It also applies whether the trust lands are publicly or privately owned. Shorelands below the ordinary high water mark are considered public trust lands. In summary, all submerged lands – including tidelands out to the three-mile-limit and the beds of navigable lakes, streams and rivers – are all public trust lands.

The Alaska Constitution contains numerous provisions embracing principles of the Public Trust Doctrine that require the state to exercise authority to ensure that the right of the public to use navigable waters for navigation, commerce, recreation, and related purposes is protected. In Alaska, the Public Trust Doctrine extends beyond those submerged lands in which the state holds title to include all waters that are navigable. The state's waters are themselves reserved to the people for common use.

The Alaska Constitution (Article VIII, sections 1, 2, 3, 6, 13, and 14) and Alaska Statutes (38.05.127 and 38.05.128) contain some of the provisions, which are the legal basis for applying the Public Trust Doctrine in Alaska. In Alaska, this doctrine guarantees the public's right to engage in activities such as commerce, navigation, fishing, hunting, trapping, and swimming, while also providing for the protection of areas for ecological study.

The Alaska Constitution provides that "free access to the navigable or public waters of the state, as defined by the legislature, shall not be denied any citizen of the United States or resident of the state, except that the legislature may by general law regulate and limit such access for other beneficial uses or public purposes." The Alaska Supreme Court has concluded "the provisions in Article VIII [of the Constitution] were intended to permit the broadest possible access to and use of state waters by the general public." *Wernberg v. State*, 516 P. 2d 1191, 1198-9 (Alaska 1973). The Alaska legislature has broadly defined the navigable and public waters available for public use in AS 38.05.965. Moreover, the legislature has endorsed a broad interpretation of the Public Trust Doctrine in Article VIII of Alaska's Constitution in finding that:

"Ownership of land bordering navigable or public waters does not grant an exclusive right to the use of the water and any rights of title to the land below the ordinary high water mark are subject to the rights of the people of the state to use and have access to the water for recreational purposes or any other public purposes for which the water is used or capable of being used consistent with the public trust." Sec. 1, Ch. 82, SLA 1985.

The legislature has also declared that the right to use state waters does not include the right to enter or trespass upon private lands. Nevertheless, with 99 percent of Alaska in public ownership at statehood, state laws regarding the transfer of land to private parties provide for public access to navigable waters. For instance, AS 38.05.127 implements the state's constitutional guarantee of access to navigable waters under Article VIII, Section 14. Under the statute, the Commissioner of the Alaska Department of Natural Resources must "provide for the specific easements or rights-of-way necessary to ensure free access to and along the body of water, unless the Commissioner finds that regulating or eliminating access is necessary for other beneficial uses or public purposes." The State's responsibilities to implement the Public Trust Doctrine are considered and used throughout this plan. Any management actions will be consistent with the Public Trust Doctrine as defined by the Alaska Constitution, statutes, court decisions, and public involvement.

Management Intent: Specific Rivers and Lakes

Because of their importance for recreation, water resources, and habitat, certain navigable rivers and lakes are given specific use designations. These are listed in Tables 3-1 and 3-2. Anadromous streams and lakes are designated Habitat and those rivers and lakes that are particularly significant for public recreation are designated Public Recreation-Dispersed. In those instances where the stream or lake is important for both purposes, these are co-designated Habitat and Public Recreation-Dispersed. Streams that are neither anadromous nor important for public recreation acquire the designation of the management unit through which they cross and since there may be numerous parcels that may have differing designations, these streams may have varying designations. Consult the plan maps to determine the appropriate designation(s) in these instances.

Management Intent: Other Rivers and Lakes

The following designations apply to the navigable rivers and lakes not specified in Tables 3-1 and 3-2:

Navigable Rivers and Lakes within LDAs

Anadromous lakes or streams within LDAs are co-designated Public Recreation-Dispersed and Habitat. Lakes and streams that are not anadromous are designated Public Recreation-Dispersed.

All other Navigable Rivers and Lakes

The designation and management intent for all other navigable waterbodies that cross or are surrounded by state land are the same as those of the upland tract, except that those portions of navigable, anadromous streams are designated Habitat. Where such waterbodies are also important for their recreation use or resource value, they are co-designated Habitat and Public Recreation-Dispersed.

Navigable rivers and lakes that are not within general state land or LDAs are designated General Use and are to be managed consistent with the public trust doctrine.

Table 3-1: Navigable Waters – Selected Streams

Stream	Anadromous (Ha)	Public Recreation (Rd)	Of High Value to Resident Fish Populations
Angel Creek	Yes	Yes	
Beaver Creek	Yes	Yes	
Belle Creek	Yes		
Blue Creek	Yes		
Bluff Cabin Creek	Yes		
Butte Creek	Yes		
Captain Creek	Yes		
Caribou Creek	Yes		
Cassiar Creek	Yes		
Central Creek	Yes		
Chatanika River	Yes	Yes	
Chena River	Yes	Yes	
Chena Slough	Yes		
Chisana River	Yes		
Colorado Creek	Yes	Yes	
Crawford Creek	Yes		
Cripple Creek	Yes	Yes	
Crooked Creek	Yes		
Deep Creek	Yes		
Delta River	Yes	Yes	Yes
Dome Creek	Yes		
East Fork Chena River	Yes	Yes	Yes
Eisenmenger Fork	Yes		Yes
Faith Creek	Yes		
Flat Creek	Yes	Yes	
Fourmile Creek	Yes		
George Creek		Yes	Yes
Gerstle River	Yes		Yes
Glacier Creek	Yes		
Goodpaster River	Yes	Yes	Yes
Goose Creek	Yes		
Hayes Creek	Yes		
Horse Creek	Yes		
Hunts Creek	Yes	Yes	
Indian Creek	Yes	Yes	Yes
Johnson River	Yes		Yes
Koepke Slough	Yes		
Kokomo Creek	Yes		
Liscum Slough	Yes		
Little Chena River		Yes	Yes
Little Delta River		Yes	Yes
Little Salcha River	Yes		Yes
Long Creek	Yes		
Lower Boulder Creek	Yes		
Lyrad Creek	Yes	Yes	
Maiden Creek	Yes		
Mastodon Creek	Yes	Yes	

Stream	Anadromous (Ha)	Public Recreation (Rd)	Of High Value to Resident Fish Populations
McCoy Creek	Yes		
McManus Creek	Yes		
Middle Fork Chena River	Yes	Yes	Yes
Modoc Creek	Yes		
Mosquito Creek		Yes	
Mullen Slough	Yes		
Munson Creek		Yes	
Murphy Creek	Yes		
Nebesna River	Yes		Yes
Nenana River	Yes	Yes	Yes
Ninetyeight Creek	Yes		Yes
North Fork, Salcha River	Yes	Yes	Yes
Noyes Slough	Yes	Yes	
Paldo Creek	Yes		
Piledriver Slough	Yes	Yes	Yes
Poker Creek	Yes		
Porcupine Creek	Yes		
Redmond Creek	Yes		
Robertson River		Yes	
Rock Creek	Yes	Yes	
Rosie Creek		Yes	
Salcha River	Yes	Yes	Yes
Sargent Creek	Yes		
Shovel Creek	Yes		
Smith Creek	Yes		
Sourdough Creek	Yes		
South Fork Chena River	Yes	Yes	Yes
South Fork Goodpaster River	Yes		
South Fork, Salcha River	Yes		Yes
Stone Boy Creek	Yes		
Stone Boys Tent Creek	Yes		
Tanana River	Yes	Yes	Yes
Tenmile Creek	Yes		
Tetlin River	Yes		Yes
Tok River	Yes	Yes	
Twentyfive Mile Creek	Yes		Yes
U.S. Creek	Yes		

Table 3-2: Navigable Waters – Selected Lakes

Lake	Navigable	Public Recreation (Rd)	Of High Value to Resident Fish Populations
Birch Lake		Yes (stocked)	
Bolio Lake		Yes (stocked)	
Chisholm Lake		Yes (stocked)	
Craig Lake		Yes (stocked)	
Dathlalmund Lake	Yes		
Deadman Lake		Yes	Yes
Donna Lake		Yes (stocked)	
Fish Lake	Yes		
Fish Lake	Yes	Yes	
Fourmile Lake		Yes (stocked)	
Harding Lake	Yes	Yes (stocked)	
Healy Lake	Yes		Yes
Koole Lake		Yes (stocked)	
Lake George	Yes	Yes	Yes
Lake Mansfield	Yes	Yes	
Lisa Lake		Yes (stocked)	
Little Harding Lake		Yes (stocked)	
Lost Lake		Yes (stocked)	
Midway Lake	Yes		
Mineral Lake	Yes		Yes
Monte Lake		Yes (stocked)	
Moose Lake		Yes (stocked)	
Quartz Lake		Yes (stocked)	
Sand Lake		Yes	Yes
T Lake		Yes	Yes
Tetlin Area (Includes numerous lakes within the Tetlin NWR.)			Yes
Tetlin Lake	Yes		
Twelvemile Lake		Yes (stocked)	
Volkmar Lake		Yes	Yes
Wolf Lake		Yes	Yes