

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.

For further information on the state’s navigability policy, go to <http://dnr.alaska.gov/mlw/nav/>

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

1 are considered public trust lands. In summary, all submerged lands – including tidelands out
2 to the three-mile-limit and the beds of navigable lakes, streams and rivers – are all public
3 trust lands.
4

5 The Alaska Constitution contains numerous provisions embracing principles of the Public
6 Trust Doctrine that require the state to exercise authority to ensure that the right of the public
7 to use navigable waters for navigation, commerce, recreation, and related purposes is
8 protected. In Alaska, the Public Trust Doctrine extends beyond those submerged lands in
9 which the state holds title to include all waters that are navigable. The state’s waters are
10 themselves reserved to the people for common use.
11

12 The Alaska Constitution (Article VIII, sections 1, 2, 3, 6, 13, and 14) and Alaska Statutes
13 (38.05.127 and 38.05.128) contain some of the provisions, which are the legal basis for
14 applying the Public Trust Doctrine in Alaska. In Alaska, this doctrine guarantees the public’s
15 right to engage in activities such as commerce, navigation, fishing, hunting, trapping, and
16 swimming, while also providing for the protection of areas for ecological study.
17

18 The Alaska Constitution provides that “free access to the navigable or public waters of the
19 state, as defined by the legislature, shall not be denied any citizen of the United States or
20 resident of the state, except that the legislature may by general law regulate and limit such
21 access for other beneficial uses or public purposes.” The Alaska Supreme Court has
22 concluded “the provisions in Article VIII [of the Constitution] were intended to permit the
23 broadest possible access to and use of state waters by the general public.” *Wernberg v. State*,
24 516 P. 2d 1191, 1198-9 (Alaska 1973). The Alaska legislature has broadly defined the
25 navigable and public waters available for public use in AS 38.05.965. Moreover, the
26 legislature has endorsed a broad interpretation of the Public Trust Doctrine in Article VIII of
27 Alaska’s Constitution in finding that:
28

29 “Ownership of land bordering navigable or public waters does not grant an exclusive right to
30 the use of the water and any rights of title to the land below the ordinary high water mark are
31 subject to the rights of the people of the state to use and have access to the water for
32 recreational purposes or any other public purposes for which the water is used or capable of
33 being used consistent with the public trust.” Sec. 1, Ch. 82, SLA 1985.
34

35 The legislature has also declared that the right to use state waters does not include the right to
36 enter or trespass upon private lands. Nevertheless, with 99 percent of Alaska in public
37 ownership at statehood, state laws regarding the transfer of land to private parties provide for
38 public access to navigable waters. For instance, AS 38.05.127 implements the state’s
39 constitutional guarantee of access to navigable waters under Article VIII, Section 14. Under
40 the statute, the Commissioner of the Alaska Department of Natural Resources must “provide
41 for the specific easements or rights-of-way necessary to ensure free access to and along the
42 body of water, unless the Commissioner finds that regulating or eliminating access is
43 necessary for other beneficial uses or public purposes.” The State’s responsibilities to
44

1 implement the Public Trust Doctrine are considered and used throughout this plan. Any
2 management actions will be consistent with the Public Trust Doctrine as defined by the
3 Alaska Constitution, statutes, court decisions, and public involvement.
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6 **Management Intent: Specific Rivers and Lakes**

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

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22 The following designations apply to the navigable rivers and lakes not specified in Tables 3-1
23 and 3-2:
24

25 **Navigable Rivers and Lakes within LDAs.**

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27 Anadromous lakes or streams within LDAs are co-designated Public Recreation-Dispersed
28 and Habitat. Lakes and streams that are not anadromous are designated Public Recreation-
29 Dispersed.
30

31 **All other Navigable Rivers and Lakes.**

32
33 The designation and management intent for all other navigable waterbodies that cross or are
34 surrounded by state land are the same as those of the upland tract, except that those portions
35 of navigable, anadromous streams are designated Habitat. Where such waterbodies are also
36 important for their recreation use or resource value, they are co-designated Habitat and
37 Public Recreation-Dispersed.
38

39 Navigable rivers and lakes that are not within general state land or LDAs are designated
40 General Use and are to be managed consistent with the public trust doctrine.
41
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1 Table 3-1: Navigable Waters – Selected Streams

Stream	Anadromous (Ha)	Public Recreation (Rd)
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
Dome Creek	Yes	
East Fork Chena River	Yes	Yes
Eisenmenger Fork	Yes	
Faith Creek	Yes	
Flat Creek	Yes	Yes
Fourmile Creek	Yes	
George Creek		Yes
Gerstle River	Yes	
Glacier Creek	Yes	
Goodpaster River	Yes	Yes
Goose Creek	Yes	
Hayes Creek	Yes	
Horse Creek	Yes	
Hunts Creek	Yes	Yes
Indian Creek	Yes	Yes
Johnson River	Yes	
Koepke Slough	Yes	
Kokomo Creek	Yes	
Liscum Slough	Yes	
Little Chena River		Yes
Little Delta River		Yes
Little Salcha River	Yes	
Long Creek	Yes	
Lower Boulder Creek	Yes	
Lyrad Creek	Yes	Yes
Maiden Creek	Yes	
Mastodon Creek	Yes	Yes
McCoy Creek	Yes	

Stream	Anadromous (Ha)	Public Recreation (Rd)
McManus Creek	Yes	
Middle Fork Chena River	Yes	Yes
Modoc Creek	Yes	
Mosquito Creek		Yes
Mullen Slough	Yes	
Munson Creek		Yes
Murphy Creek	Yes	
Nebesna River	Yes	
Nenana River	Yes	Yes
Ninetyeight Creek	Yes	
North Fork, Salcha River	Yes	Yes
Noyes Slough	Yes	Yes
Paldo Creek	Yes	
Piledriver Slough	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
Sargent Creek	Yes	
Shovel Creek	Yes	
Smith Creek	Yes	
Sourdough Creek	Yes	
South Fork Chena River	Yes	Yes
South Fork Goodpaster River	Yes	
South Fork, Salcha River	Yes	
Stone Boy Creek	Yes	
Stone Boys Tent Creek	Yes	
Tanana River	Yes	Yes
Tenmile Creek	Yes	
Tetlin River	Yes	
Tok River	Yes	Yes
Twentyfive Mile Creek	Yes	
U.S. Creek	Yes	

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Table 3-2: Navigable Waters – Selected Lakes

Lake	Navigable	Public Recreation (Rd)
Birch Lake		Yes (stocked)
Bolio Lake		Yes (stocked)
Chisholm Lake		Yes (stocked)
Craig Lake		Yes (stocked)
Dathlalmund Lake	Yes	
Deadman Lake		Yes
Donna Lake		Yes (stocked)
Fish Lake	Yes	
Fish Lake	Yes	Yes

Lake	Navigable	Public Recreation (Rd)
Fourmile Lake		Yes (stocked)
Harding Lake	Yes	Yes (stocked)
Healy Lake	Yes	
Koole Lake		Yes (stocked)
Lake George	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	
Monte Lake		Yes (stocked)
Moose Lake		Yes (stocked)
Quartz Lake		Yes (stocked)
Sand Lake		Yes
T Lake		Yes
Tetlin Area (Includes numerous lakes within the Tetlin NWR.)		
Tetlin Lake	Yes	
Twelvemile Lake		Yes (stocked)
Volkmar Lake		Yes
Wolf Lake		Yes