

Final Approval

Northwest Area Plan Amendment

Alaska Department of Natural Resources
Division of Mining, Land and Water
November 2005

Decision

This decision, to amend the Northwest Area Plan (NWAP), changes the plan designations for portions of nine subunits of the NWAP and modifies the public noticing requirements of this plan. Public and agency comments were received on a Public Review Draft of the NWAP Amendment issued August 1, 2005 and after review of public and agency comments, I have determined that it is in the best interest of the State to proceed with the action identified in the Public Review Draft. I therefore have approved this plan Amendment to the NWAP, Land Classification Order No. 88-008-A06, and the recommended changes to the public notification requirements. An evaluation of the public comments is provided in the attached Issue Response Summary.

Summary

This amendment to the Northwest Area Plan allows classification of some previously unclassified lands and reclassifies others, allowing the Department of Natural Resources to convey lands that have been selected by the Northwest Arctic Borough as part of their municipal entitlement. The Municipal Entitlement Act allows the NWAB to select 285,438 acres of state land within its boundaries. Concurrent with this action, the Department of Natural Resources is issuing four Final Findings and Decisions (FFDs) that, if adopted, will convey municipal entitlement land to the borough. The amendment is necessary since some current land use classifications don't allow conveyance of many of the borough's selections. The FFDs provide a more detailed examination of what lands are appropriate for conveyance and what lands should be retained by the state due to mineral values, habitat considerations, public access, and other values and uses.

This Plan Amendment facilitates conveyance of state lands to the Northwest Arctic Borough. The majority of selected lands, with a non-conveyable classification, are reclassified as Settlement Land prior to approval for conveyance. Others are classified as Public Recreation Lands. Only those lands actually approved in the FFDs for conveyance will be reclassified.

This amendment also changes the public notice provisions of the NWAP as outlined on page 2-5 and Appendix B. This amendment eliminates inefficient notice requirements in the original area

plan and institutes practices currently used that are more discretionary and aimed at entities directly affected by DNR decisions.

Background

The Northwest Area Plan (NWAP) directs how the DNR manages land and resources on state-owned uplands and tidelands, shorelands, and submerged lands in the planning area.

Municipalities, including boroughs, are entitled to state-owned uplands within their corporate boundaries under the Municipal Entitlement Act (AS 29.65.010-140). A total of 285,438 acres can be conveyed to the NWAB under this Act. To date only four acres have been conveyed.

The Northwest Arctic Borough (NWAB) has current selections¹ of approximately 214,822 acres of state uplands at four locations: the Wulik River area (21,577 acres), the Squirrel River area (3,625 acres), the Kobuk area (68,129 acres), and the Candle/Buckland area (121,491 acres). In addition the borough has a relatively small selection (currently non-conveyable) of state-selected land on the southwest side of Selawik Lake (2,126 acres) and a large area (71,434) in the Squirrel River region, also on state-selected lands. Lands within selection areas are classified Wildlife Habitat Land, Mineral Land, Coal Land, Settlement Land, Resource Management Land, and Public Recreation Land. The classifications of Wildlife Habitat Land, Mineral Land, and Coal Land would need to be changed to a conveyable classification, such as Settlement or Public Recreation, in order for the state to transfer management and ownership of the selections to the NWAB.

The NWAB has made considerable selections in the Squirrel River area on a spectrum of lands selected by the state. These lands are presently unclassified in the NWAP. The amendment proposes to designate them Public Recreation and Tourism-Dispersed which will convert to a Public Recreation Lands Classification. There is no guarantee that the state will receive title to these lands but the state will make its best effort to secure ownership to those lands selected by the NWAB.

The Northwest Area Plan

The NWAP (1989) encompasses state lands in an area of northwest Alaska that includes the Lisburne Peninsula up to Icy Cape, Kotzebue Sound and the Kobuk River Valley, the Seward Peninsula, and Norton Sound. The planning area has many diverse physiographic regions. The arctic coastal plain, Brooks Range foothills, and DeLong Mountains make up most of the northern portion. The Baird Mountains and lowlands along the Noatak, Kobuk, Selawik, and Buckland rivers cover the central portion. The southern portion includes the Seward Peninsula, the Yukon-Kuskokwim coastal lowlands of lower Norton Sound, and the Mulato Hills. The

¹ The “selections” referred to herein are those selections that have been adjudicated by the DNR and have been found to be appropriate for conveyance to the Northwest Arctic Borough in four Final Findings and Decisions of November 2005.

Kobuk, Noatak, and Selawik rivers are the three major river systems within the region that drain into Kotzebue Sound. Other significant rivers include the Kukpuk, Buckland, Kuzitrin, Niukluk, Koyuk, and Unalakleet rivers. The area plan provides land use designations and management intent for approximately 16.9 million acres of state land – 11.6 million acres of uplands and 5.3 million acres of tide, submerged, and shore lands. The plan was prepared during the late 1980s and adopted in 1989. There have been no major amendments or revisions to the plan since its adoption.

The Northwest Area Plan anticipated reclassification of lands to address municipal entitlement. Chapter 1 pages 13 and 14 state:

Settlement of municipal entitlement is a high priority for DNR, and the current classifications of the plan will not preclude considering parcels of land for reclassification and transfer to a municipality.

Chapter 4 page 4-5 also states:

Much land is classified in categories not available to transfer, such as Wildlife Habitat Land and Mineral Land. However, settlement of municipal entitlements is a high priority of the department and current classification will not preclude considering of parcels of land for reclassification and transfer to a municipality.

When such lands are selected [by the municipality], DNR and the Department of Fish and Game will do a more detailed, site-specific analysis of the resource values. This analysis may result in changing a classification to one that is available for transfer. Changes in designations and classifications will require plan amendment and reclassification before the selection is approved.

Municipal Selections

The purpose of the Municipal Entitlement Act is to provide lands that would: (1) create or expand a tax base; (2) generate revenue through land sales and leases; and (3) provide a land base that could be reserved for public areas or facilities as well as provide a land base for community expansion. Alaska Statutes (AS 29.65.010-140) provide for the conveyance of vacant, unappropriated, and unreserved (VUU) state general grant land within the corporate boundaries of a municipality. Lands currently established as conveyable, from the state to a municipality, include unclassified lands and lands classified as: resource management, agricultural, grazing, material, settlement, and public recreation {AS 29.65.130 (10)(C) and (D)}.

Subsequent to adoption of the NWAP, the NWAB completed and submitted land selections to the DNR towards its municipal entitlements. The NWAB is entitled to receive 285,438 acres; to date, only a small amount has been approved for conveyance to the borough – approximately four acres. Table 1 shows the status of municipal selections and conveyances.

Table 1 -- Current Status of NWAB Municipal Selections

| <i>Category</i> | <i>Acres</i> | <i>Location</i> |
|-----------------------|--------------|--|
| Total Entitlement | 285,438 | |
| Already Conveyed | 0 | |
| Approved Selections | <u>4</u> | Kobuk School |
| Remaining Entitlement | 284,434 | |
| | | |
| Pending Selections | 288,305 | Wulik, Squirrel, Kobuk, Candle and Selawik areas |

Areas with NWAB Selections: Table 2 provides an indication of the acreage distribution of the selections by area; it indicates what management units are affected, the acreage involved, the acreage currently in a conveyable land classification, and the acreage that is reclassified to a conveyable status. The selections are located primarily in four areas, depicted on Maps A-1 to A-5 -- the Wulik River Area (Map A-1), the Squirrel River Area (Map A-2), the Kobuk Area (Map A-3 and A-4), and the Candle Area (Map A-5). The NWAP did not classify land in the Squirrel River area; this amendment approves for classification lands selected by the NWAB on state-selected land. However, reclassification should not take place until the state receives title to the land and the selections can be adjudicated under the municipal entitlement act and the lands are approved for conveyance.

Table 2 -- NWAB Selections by Area Showing Acreages of Reclassifications

| <i>General Location</i> | <i>Management Unit</i> | <i>Acreage</i> | <i>Conveyable Classification (Acreage)</i> | <i>Reclassify or Classify (Acreage)</i> |
|-------------------------|------------------------|----------------|--|---|
| Wulik River | 2 | 21,577 | 3,872 | 17,705 |
| Squirrel River | 7 | 3,625 | 3,625 | 75,059 |
| Kobuk | 3 | 64,705 | 5,179 | 59,449 |
| Kobuk (Norutak Lake) | 3 | 3,424 | 0 | 3,424 |
| Candle | 2 | 121,491 | 41,051 | 80,440 |
| | | | | |
| Totals | | 214,822 | 53,727 | 236,077 |

Wulik River Area: Selections in the Wulik River Area (Map A-1) total approximately 21,577 acres (not including 1,157 acres that are part of a postponed decision discussed below). In general the selections are south and southwest of the Red Dog mine. The selections are within Management Unit 2 of the NWAP. Selections are generally located along the corridor of the Wulik River, along Ikalukrok Creek, along the north flank of Kikmiksot Mountain, and along the Noatak River in the general vicinity of Pingaluruk Creek and Evaingiknuk Creek. The majority

of selections are on land with a land use designation of Habitat and Harvest; a small amount is on lands codesignated Minerals/Habitat & Harvest, and some are on land designated General Use.

Table 3 -- NWAB Selections by Management Subunit in the Wulik River Area

| <i>Plan Subunit</i> | <i>Land Use Designation(s)</i> | <i>Acres</i> | <i>Land Classification</i> | <i>Conveyable?</i> | <i>Change to</i> |
|---------------------|--------------------------------|--------------|----------------------------|--------------------|------------------|
| 2b | Gu | 3,872 | Resource Management | Yes | No Change |
| 2c | Mi, Ha, Hv | 4,309 | Minerals, Wildlife Habitat | No | Se |
| 2f | Ha, Hv | 13,396 | Wildlife Habitat | No | Se |
| | | | | | |
| | Total | 21,577 | | | |

Gu = General Use Lands; Ha, Hv = Habitat and Harvest Lands; Mi = Mineral Lands; Mi, Ha, Hv = Minerals/Habitat and Harvest Lands; Rd = Recreation Lands; Se = Settlement Lands

The borough has made a selection, in plan subunit 2f, along the Red Dog Mine road (the “Red Dog Mine Road Selection”) comprising 1,157 acres. The road and adjoining lands are currently the subject of a study by the Alaska Department of Environmental Conservation to determine if mine concentrate losses along the road constitute a risk to public health. The Final Finding and Decision (FFD) postpones the conveyance decision on this selection until the studies are completed. As such, this amendment authorizes reclassification of these selections from Wildlife Habitat and Harvest to Settlement but only when or if the conveyance of this area is approved by DNR. The land use designation will continue with its current designation of Wildlife Habitat and Harvest if the conveyance to the borough is not approved.

Squirrel River Area: Selections (that are currently being adjudicated) in the Squirrel River Area (Map A-2) total approximately 3,625 acres. These selections are on state-owned lands along the Omar River, a south flowing tributary to the Squirrel River. The borough also has made selections of considerable acreage elsewhere in the Squirrel River drainage on lands that have been selected by the state but to which the state has yet to receive tentative approval or patent. State land selections in this area were not classified by the Northwest Area Plan. These selections are within Management Unit 7 of the NWAP. This amendment classifies these selections Public Recreation Land. Actual classification is to occur only on those lands actually conveyed to the NWAB.

Table 4 -- NWAB Selection by Management Subunit in the Squirrel River Area

| <i>Plan Subunit</i> | <i>Land Use Designation</i> | <i>Acres</i> | <i>Classification</i> | <i>Conveyable?</i> | <i>Change to</i> |
|---------------------|-----------------------------|--------------|-----------------------|--------------------|------------------|
| None | None | 3,625 | None (TA'd land) | Yes | Rd |
| None | None | 71,434 | None (Selected land) | | Rd |
| | | | | | |
| | Total | 75,059 | | | |

Kobuk Area: Selections in the Kobuk Area (Map A-3) total approximately 64,705 acres. The selections are somewhat scattered with individual blocks located along the Redstone River, the Ambler River, and the Shungnak River; blocks also are located along the Kobuk and Mauneluk Rivers, as well as the Pah River and a large block in the vicinity of Minakokosa Lake and the Akoliakruich Hills. These selections are within Management Unit 3 of the NWAP. Selections have been made on lands designated General Use; Habitat and Harvest; Minerals, Habitat, and Harvest; Habitat, Harvest, and Recreation; and Settlement. The amendment reclassifies areas of these selections to Settlement Land and Public Recreation Land.

Table 5 -- NWAB Selections by Management Subunit in the Kobuk Area

| <i>Plan Subunit</i> | <i>Land Use Designation(s)</i> | <i>Acres</i> | <i>Classification</i> | <i>Conveyable?</i> | <i>Change to</i> |
|---------------------|--------------------------------|--------------|-------------------------------------|--------------------|------------------|
| 3a | Gu | 1,300 | Resource Management | Yes | No Change |
| 3b | Mi, Ha, Hv | 13,016 | Minerals, Wildlife Habitat | No | Se |
| 3d | Ha, Hv, Rd | 9,994 | Wildlife Habitat, Public Recreation | No | Rd |
| 3f | Se | 3,879 | Settlement | Yes | No Change |
| 3g | Ha, Hv | 36,516 | Wildlife Habitat | No | Se |
| | | | | | |
| | Total | 64,705 | | | |

Norutak Lake Area: Selections by the NWAB in the Norutak Lake Area (Map A-4) total approximately 3,424 acres. The selections largely ring Norutak Lake. The selections are within Management Unit 3 of the NWAP and all are within subunit 3g designated Wildlife Habitat and Harvest. The amendment reclassifies these selections as Public Recreation Land.

Table 6 -- NWAB Selections by Management Subunit in the Norutak Lake Area

| <i>Plan Subunit</i> | <i>Land Use Designation</i> | <i>Acres</i> | <i>Classification</i> | <i>Conveyable?</i> | <i>Change to</i> |
|---------------------|-----------------------------|--------------|-----------------------|--------------------|------------------|
| 3g | Ha, Hv | 3,424 | Wildlife Habitat | No | Rd |
| | | | | | |
| | Total | 3,424 | | | |

Candle Area: Selections by the NWAB in the Candle area (Map A-5) total approximately 121,491 acres. The selections are primarily located along the drainage of the Kiwalik River, including Candle Creek and Quartz Creek; in addition three townships have been selected in the drainage of the West Fork of the Buckland River. These selections are within Management Unit 2 of the NWAP. Selections have been made on land designated Minerals; Minerals, Habitat, and Harvest; Habitat and Harvest, and General Use. The amendment reclassifies these selections to Settlement Land.

Table 7 -- NWAB Selections by Management Subunit in the Candle Area

| <i>Plan Subunit</i> | <i>Land Use Designation(s)</i> | <i>Acres</i> | <i>Classification</i> | <i>Conveyable?</i> | <i>Change to</i> |
|---------------------|--------------------------------|--------------|----------------------------|--------------------|------------------|
| 2b | Gu | 41,051 | Resource Management | Yes | No Change |
| 2c | Mi, Ha, Hv | 12,355 | Minerals, Wildlife Habitat | No | Se |
| 2d | Mi | 640 | Minerals | No | Se |
| 2f | Ha, Hv | 67,445 | Wildlife Habitat | No | Se |
| | | | | | |
| | Total | 121,491 | | | |

Northwest Area Plan Amendment

Municipal Entitlement: This amendment facilitates the conveyance of state land to the NWAB but does not otherwise affect management intent or guidelines described in the Area Plan. Only those selected lands approved for conveyance to the NWAB are reclassified. Any lands remaining in state ownership will retain the current land classification. The management intent language for management units with boundaries modified by this amendment has not been changed, altered, or reformulated. Selections conveyed to the NWAB, will be managed by the borough and no longer will be subject to the Area Plan.

Table 9 -- Northwest Area Plan Amendment (refer to Maps A-1 to A-6)

| <i>Conveyance Land in Plan Subunit</i> | <i>From Land Use Designation</i> | <i>To Land Use Designation</i> | <i>Resulting Land Classification</i> |
|--|----------------------------------|--------------------------------|--------------------------------------|
| 2c | Mi, Ha, Hv | Se | Settlement |
| 2d | Mi | Se | Settlement |
| 2f | Ha, Hv | Se | Settlement* |
| 3b | Mi, Ha, Hv | Se | Settlement |
| 3d | Ha, Hv, Rd | Rd | Public Recreation |
| 3g | Ha, Hv | Se | Settlement |
| 7 | None | Se | Public Recreation |

* Within plan subunit 2f's "Red Dog Mine Road Selection" this amendment proposes to redesignate this selection from Wildlife Habitat and Harvest to Settlement with the proviso that the designations will revert to its previous designations of Wildlife Habitat and Harvest if the conveyance to the borough is not approved in a subsequent DNR adjudication process.

Amendment of Public Notice Requirements: This amendment also changes the public notice provision of the NWAP as outlined on page 2-5 and Appendix B of the NWAP. Past practice has demonstrated that the DNR receives little response using the notification guidelines which are very costly and time consuming. Under the plan amendment, DNR will exercise more discretion in the notification process so as to notice those parties known to be directly affected by or concerned with a particular action or authorization and in accordance with AS 38.05.945.

The NWAP is amended to revise Management Guideline C on Page 2-5 to the following:

“**C. Public Notice.** Public Notice will be given for authorizations required under AS 38.05.945 or its equivalent, for activities such as land sales, remote cabins, and commercial leases.”

The DNR will follow current practice notification procedures using qualified newspapers and other news outlets, the internet, and letters to affected parties.

Initial and Agency Review of the Plan Amendment and Borough Selections

Because of the close relationship between the plan amendment and the four FFDs that convey land to the NWAB, agency comments on these selections are provided below. The borough's selections underwent an initial review by the DNR and a formal agency review by state agencies. Internal DNR review of preliminary selections resulted in revision and reconfiguration of many parcels by the NWAB to conform to the 4:1 rule (AS 29.65.070 (c)) which requires that selections must be compact in shape and generally not longer than 4 times their width. The Borough also dropped many selections in areas of high mineral value where the DNR objected to separating the mineral estate from the surface estate; the concern was that development of the surface estate could potentially have an adverse effect on possible mineral development. In addition to reconfiguring its initial selections to conform to AS 29.65.070 (c) the Northwest Arctic Borough relinquished over 30,000 acres of selections with mineral potential, at the request of DNR, during both the initial review of the selections and the agency review.

Agency comments from ADF&G have been particularly useful in defining certain areas that the state should retain or be managed in a particular way. With the help of ADF&G, a number of public use sites on principal watercourses were identified; although these sites will be conveyed and managed by the borough they will remain in public ownership with public access. ADF&G also specified parts of certain selections that are of special concern for fish and wildlife habitat, such as river confluences and the inlets and outlets of lakes. The FFDs have determined that a number of these areas will be retained in state ownership. Concern over public access resulted in decisions to retain most islands in the various river systems so that public use of these waterways can continue should the borough eventually dispose of its lands adjacent to the water. Lastly, portions of some selections will remain in state ownership due to access considerations; easements are provided for along all RS2477 routes.

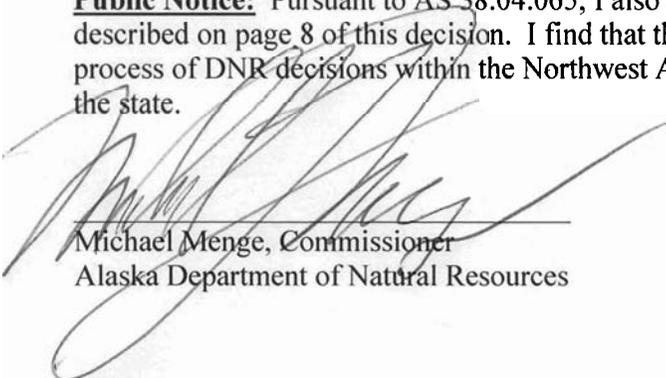
Public Review

A Public Review Draft of this amendment to the Northwest Area Plan was issued August 1, 2005 and the public comment period extended until September 30, 2005. Public meetings were held in Anchorage, Kotzebue, Shungnak, Nome, and Fairbanks. Few comments were received. These comments are addressed in the attached Issue Response Summary.

Commissioner's Decision

NWAP Amendment: Pursuant to AS 38.04.065, I adopt this Plan Amendment to implement the change in plan designations and changes in the public noticing requirements of the Northwest Area Plan as described previously (above). I also adopt Land Classification Order (LCO) NC-88-008-A06, which will reclassify state land to be consistent with the approved changes in plan designations to the NWAP. I recognize that, by accepting this Amendment, this action will enable the Final Findings and Decisions, a separate but concurrent action by the Department, to convey approved land selections by the Northwest Arctic Borough under the Municipal Entitlement Act. I find the proposed actions, identified above, to be in the overall best interest of the state.

Public Notice: Pursuant to AS 38.04.065, I also adopt the proposed change in public notice as described on page 8 of this decision. I find that this action will expedite the public review process of DNR decisions within the Northwest Area Plan and that this is in the best interest of the state.



Michael Menge, Commissioner
Alaska Department of Natural Resources

11/9/05

Date

**State of Alaska
Department of Natural Resources
Division of Mining, Land and Water**

Land Classification Order NC-88-008-A06

- I. Name: **Northwest Area Plan Amendment (NWAPA)**
- II. The classifications in Part III are based on written justification in:

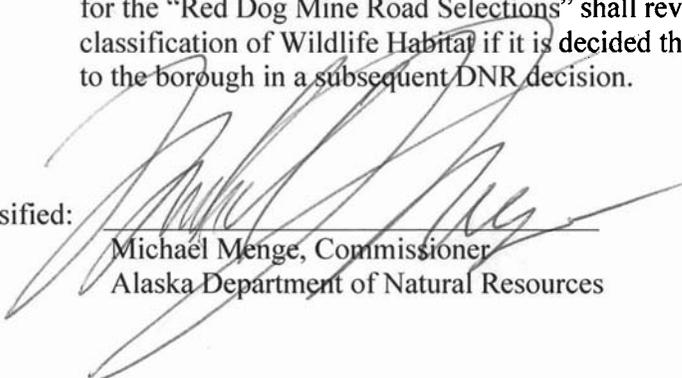
Area Plan: Northwest Area Plan Amendment

Adopted () Revised (X) Dated November 2005

| III. Legal Description | Acreage | Acquisition Authority | Existing Classification | Classification by this Action |
|---|---------|-----------------------|-------------------------|-------------------------------|
| See NWAPA Maps A-1 to A-6 and maps that accompany the FFDs conveyance | 214,822 | | See NWAPA Table 9 | See NWAPA Table 9 |

- III. This order is issued under the authority granted by AS 38.04.065 and AS 38.05.300 to the Commissioner of the Department of Natural Resources. The above-described lands are hereby classified as indicated above. Nothing shall prevent the reclassification of these lands if warranted in the public interest. This classification for the "Red Dog Mine Road Selections" shall revert, however, to its previous classification of Wildlife Habitat if it is decided that this area should not be conveyed to the borough in a subsequent DNR decision.

Classified:



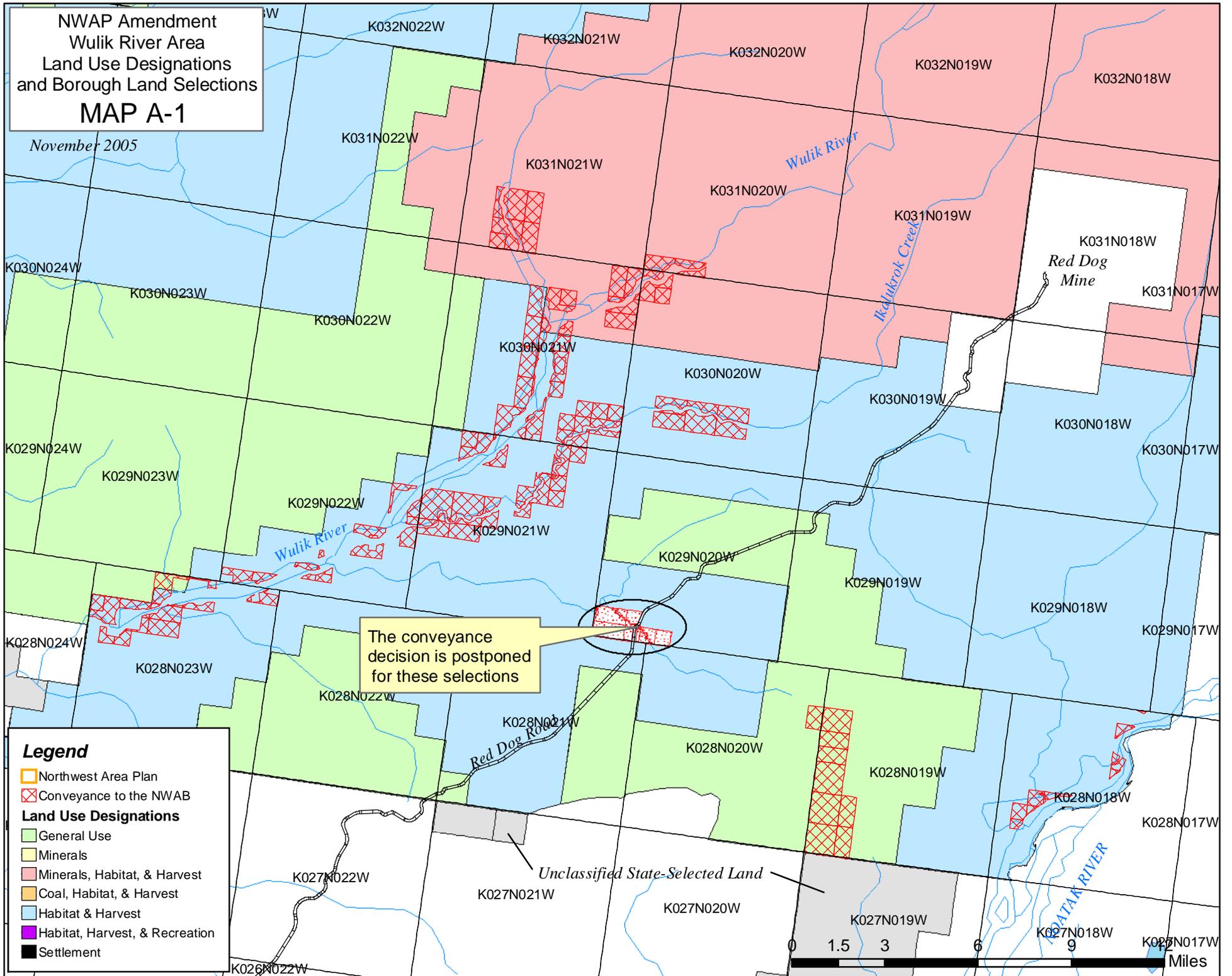
Michael Menge, Commissioner
Alaska Department of Natural Resources

11/9/05

Date

NWAP Amendment
 Wulik River Area
 Land Use Designations
 and Borough Land Selections
MAP A-1

November 2005



The conveyance decision is postponed for these selections

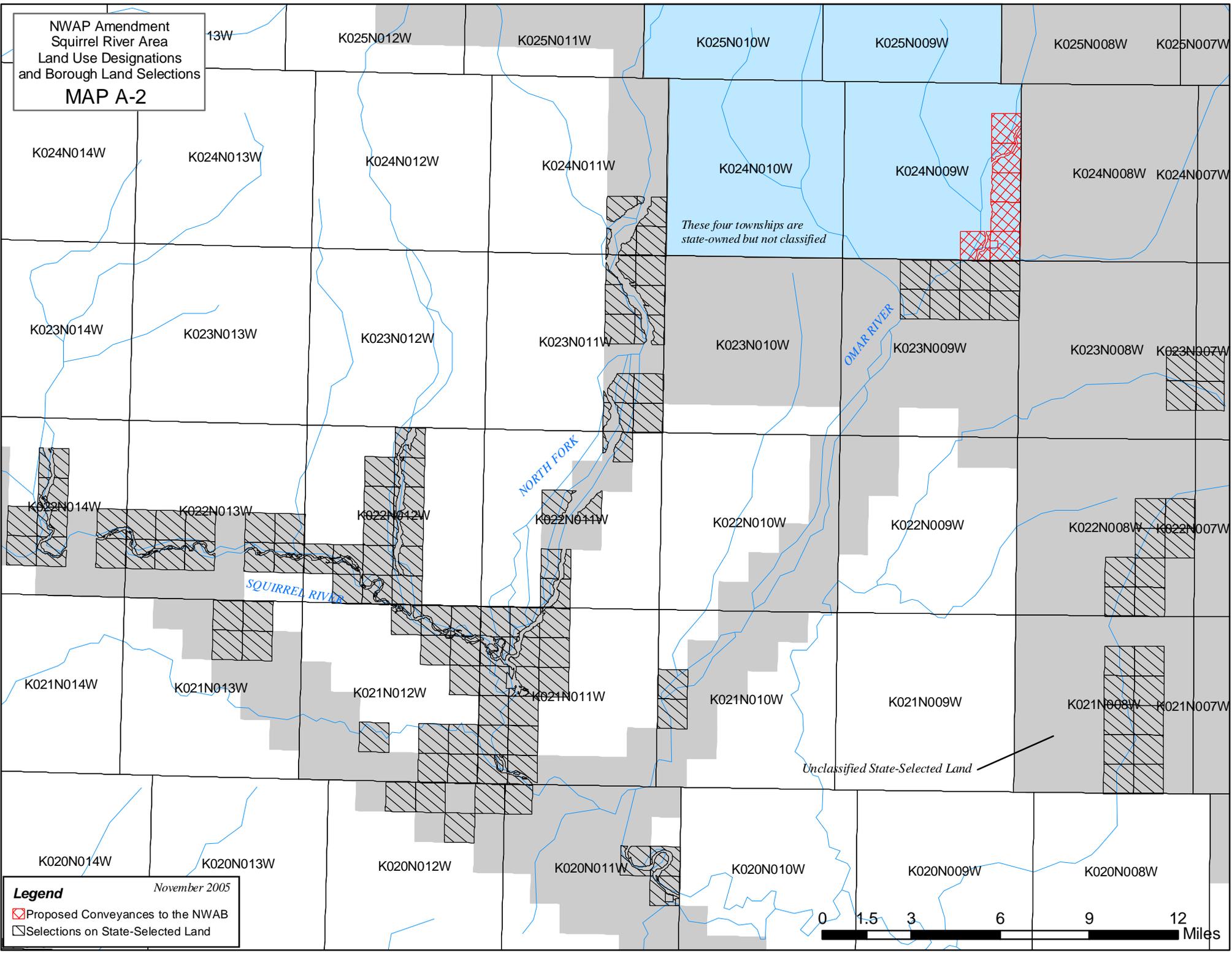
Legend

- Northwest Area Plan
- Conveyance to the NWAB
- Land Use Designations**
- General Use
- Minerals
- Minerals, Habitat, & Harvest
- Coal, Habitat, & Harvest
- Habitat & Harvest
- Habitat, Harvest, & Recreation
- Settlement

Unclassified State-Selected Land



NWAP Amendment
Squirrel River Area
Land Use Designations
and Borough Land Selections
MAP A-2

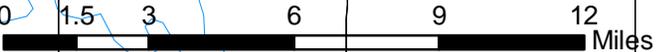


These four townships are state-owned but not classified

Unclassified State-Selected Land

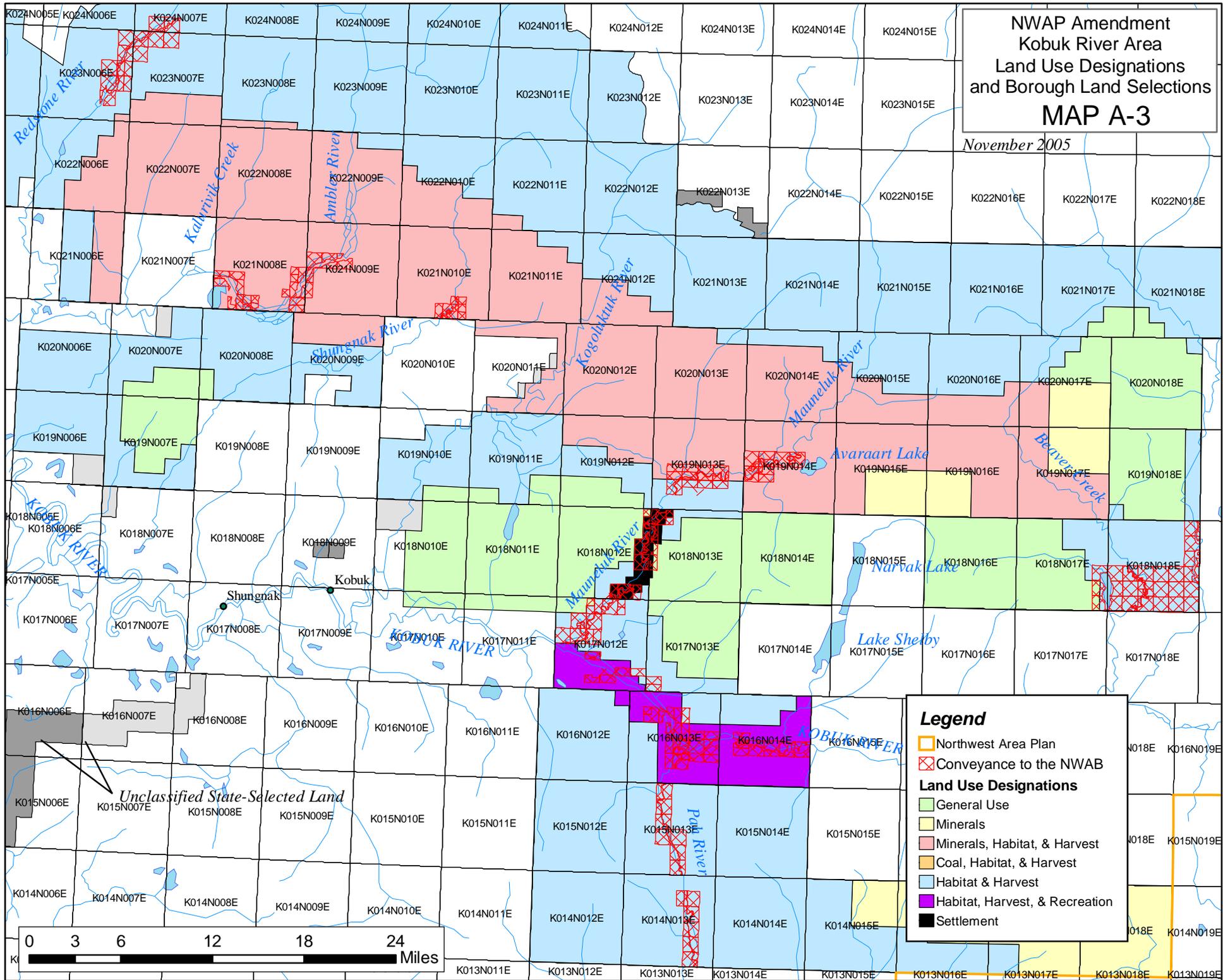
Legend November 2005

- Proposed Conveyances to the NWAB
- Selections on State-Selected Land



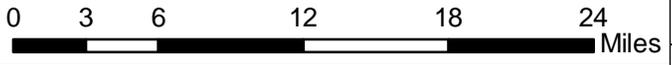
NWAP Amendment
Kobuk River Area
Land Use Designations
and Borough Land Selections
MAP A-3

November 2005



Legend

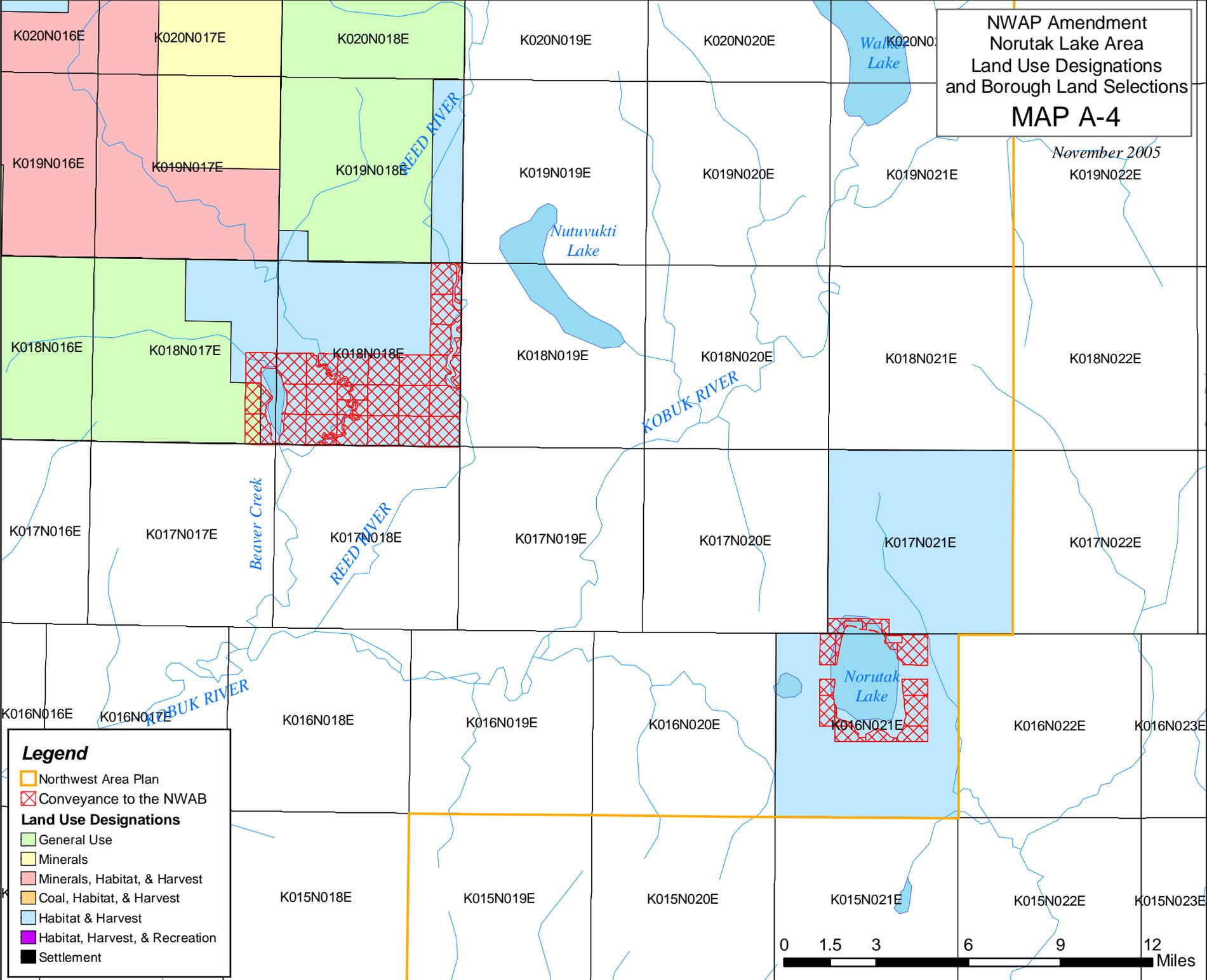
- Northwest Area Plan
- Conveyance to the NWAB
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- Habitat, Harvest, & Recreation
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Unclassified State-Selected Land

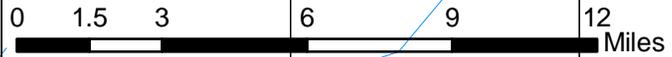
NWAP Amendment
 Norutak Lake Area
 Land Use Designations
 and Borough Land Selections
MAP A-4

November 2005
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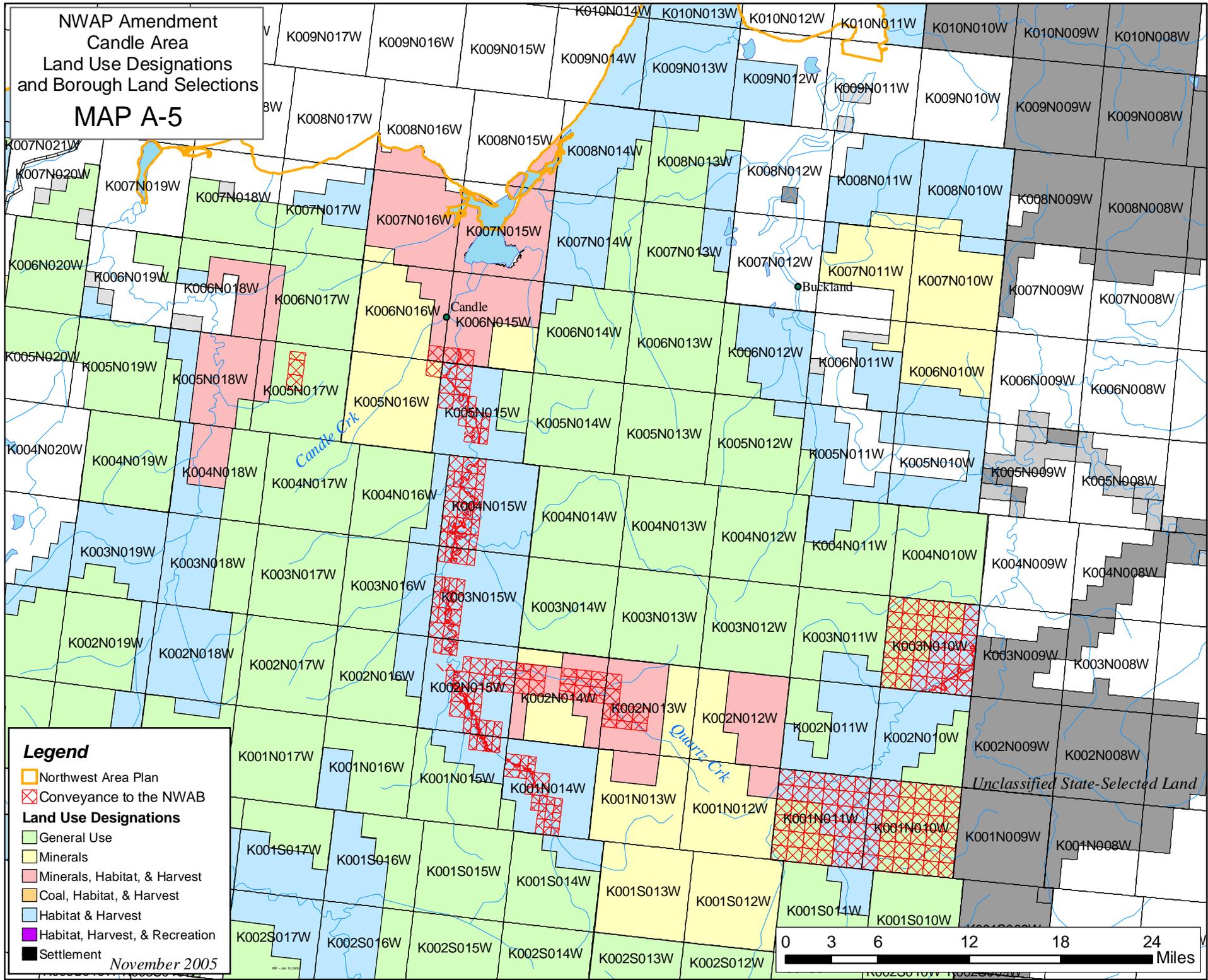


Legend

- Northwest Area Plan
- Conveyance to the NWAB
- Land Use Designations**
- General Use
- Minerals
- Minerals, Habitat, & Harvest
- Coal, Habitat, & Harvest
- Habitat & Harvest
- Habitat, Harvest, & Recreation
- Settlement



NWAP Amendment
Candle Area
Land Use Designations
and Borough Land Selections
MAP A-5



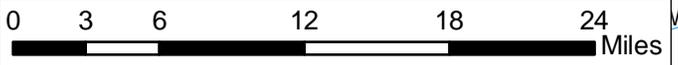
Legend

- Northwest Area Plan
- Conveyance to the NWAP

Land Use Designations

- General Use
- Minerals
- Minerals, Habitat, & Harvest
- Coal, Habitat, & Harvest
- Habitat & Harvest
- Habitat, Harvest, & Recreation
- Settlement

November 2005



Issue-Response Summary Northwest Area Plan Amendment

ISSUES RAISED AS A RESULT OF PUBLIC NOTICE AND PUBLIC MEETINGS

1) ISSUE: (From Preston, Gates, and Ellis, LLP) Mining interests represented by Preston, Gates, and Ellis object to the conveyance of section 36 T6N R16W and section 1 T5N R16W, as depicted on map C-1 of the Preliminary Finding and Decision (Deering-Candle-Buckland Area). The mining interests hold claims that adjoin section 36 and are ½ mile west of section 1. The basis of the objection is that the Northwest Arctic Borough (NWAB) has zoned its land in this area as Subsistence Conservation lands (not Resource Development lands). The mining interests prefer that the state not convey these two sections to the NWAB; this then would leave a buffer of state lands between claims that they propose to mine and other lands to be conveyed to the Borough.

DMLW RESPONSE AND RECOMMENDATION: It is our understanding that the intent of the requested action is to provide a buffer between mining and other land uses. In other municipal conveyance decisions involving similar conditions, DNR has not imposed buffers of the type request. For instance, mining claims about municipal conveyances in the Wulik River (Red Dog) District and in the Ambler Mineral District. The NWAB originally (1992 and 1996) selected virtually all of the lands on Candle Creek. The majority of the state mining claims located along Candle Creek for the lands in question were staked after the borough made its lands selections and thus the claim holders should have had knowledge that the lands had a strong likelihood of conveyance to the borough. The DNR has been very sensitive to the issue of trying to avoid the creation of split surface and subsurface estates. As such the DNR urged the borough to relinquish many selections that are on lands with active mining claims. The borough has been most responsive to this request and did so in the vicinity of Candle and in many other mining districts in the NWAB. In fact, the borough has relinquished over 30,000 acres of selections, at the request of DNR, to avoid areas with active mining claims. As such the DNR believes that the borough has been very cooperative in meeting these DNR requests although under no obligation to do so. The DNR does however have an obligation to the NWAB to convey its selections unless there is an overriding state interest. In this instance we find no such overriding state interest. Subsistence and fish and wildlife values must be adequately protected irrespective of zoning or land classifications for any proposed mining operation.

ISSUE: (From the Northwest Arctic Borough and public comments from attendees of the Shungnak public meeting of September 8, 2005). The Borough strongly objects to the state retaining near the mouth of the Pah River as shown on Map K-11 of the Preliminary Finding and Decision (Kobuk Area). This land (“the island”) contains sites of significant cultural value to the people of the borough.

DMLW RESPONSE AND RECOMMENDATION: The DNR concurs with the Northwest Arctic Borough. Additional research following public meetings does indeed show that the lands in question (“the island”) do contain sites of cultural value to the Borough. However, the DNR also agrees with the Alaska Department of Fish and Game that some land in this general area

should be retained in state ownership to guarantee public access. To resolve the issue to the satisfaction of state interests and those of the Borough, the island will be conveyed to the borough; substitute lands in the vicinity of the nearby Public Use Site will be expanded and retained in state ownership. The changes are shown on the attached Map K-11 Revised.