

CHAPTER 4

Implementation and Recommendations

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CHAPTER 4

IMPLEMENTATION AND RECOMMENDATIONS

INTRODUCTION

This chapter includes information and recommendations necessary to implement plan goals, management intent, and guidelines. Information is included on the following:

- State Land Classification
- Public Trust Doctrine
- Surface Leasing
- Classification Order
- Special Use Designations
- Alaska Coastal Management Program
- Municipal Entitlement
- Land Selection and Selection Priorities
- Proposed Selection Relinquishments
- Coordination with Federal Land Management
- Mineral Order
- Proposed Additions to State Marine Park System
- Procedures for Plan Changes

STATE LAND CLASSIFICATION

To implement the plan on state lands, DNR must classify state lands to reflect the intent of land use designations made by the plan. State law requires that classification precede most leasing of state uplands, tidelands, or submerged lands and most conveyances of state uplands and tidelands. According to state statute classification means, ". . .the designation of lands according to their apparent best use." It ". . . identifies the primary use for which the land will be managed . . ." but ". . . all other uses are initially presumed as compatible with the primary use." For this reason, all plan classifications are intended for multiple uses. In this plan most units are assigned a single, principle designation.

In some instances more than one designation is identified; these are termed "co-designations" and indicate that two (or more) uses are considered to be compatible within a specific tract of state land. In a single instance more than two designations are used. The General Use (Gu) designation is used frequently in this plan, typically applying to the larger tracts of state land where two or more uses are judged to be compatible within specific portions of the tract. Compatibility should be able to be achieved through distance separation or siting, and design techniques applied to particular uses that ameliorate undesirable effects.

Following is a list of land classifications, and their associated definitions in Alaska regulations, which will apply to state lands in the planning area as a result of plan adoption. DNR will manage state lands and resources consistent with these classifications and with the management directions given in Chapter 3 for specific parcels of state land.¹

11 AAC 55.070. Forest Land. Land classified forest is land that is or has been forested and is suited for forest management because of its physical, climatic, and vegetative conditions.

11 AAC 55.095. Heritage Resources Land. Land classified heritage resources is land where there is active preservation of, or research for, significant historical, prehistoric, paleontological, or other cultural values or where there is reason to believe that these values exist.

11 AAC 55.120. Material Land. Land classified material is land that is suitable for the extraction of common varieties of sand, gravel, stone, peat, clay, and other similar materials.

11 AAC 55.160. Public Recreation Land. Land classified public recreation is land that is suitable for recreation uses, waysides, parks, campsites, scenic overlooks, hunting, fishing or boating access sites, trail corridors, or greenbelts along bodies of water or roadways.

11 AAC 55.170. Reserved Use Land.

A. Land classified reserved use is land that:

- 1) Is reserved for transfer to another governmental or non-governmental agency that is performing a public service;
- 2) Is reserved for transfer through land exchanges; or
- 3) Has been designated for a public facility.

¹ Land not otherwise classified on the plan maps within the planning area are classified General Use (Gu) or if reconveyed to the state and previously classified, under the previous applicable classification order.

B. Nothing in this section requires classification of land identified for a future land exchange under AS 38.05.50.

11 AAC 55.200. Resource Management Land. Land classified resource management is either:

A. Land that might have a number of important resources, but for which a specific resource allocation decision is not possible because of a lack of adequate resource, economic, or other relevant information; or for which a decision is not necessary because the land is presently inaccessible and remote and development is not likely to occur within the next 10 years; or

B. Land that contains one or more resource values, none of which is of sufficiently high value to merit designation as a primary use.

11 AAC 55.202. Settlement Land. An upland area classified settlement is land that is, by reason of its physical qualities and location, suitable for year-round or seasonal residential or private recreational use or for commercial or industrial development. Tidelands are to be managed to support those existing or proposed upland settlement uses.

11 AAC 55.215. Waterfront Development Land. Land classified waterfront development is tideland, submerged land, or shoreland that is suitable to be used for commercial or industrial activities such as fish processing, aquatic farming, mineral and log transfer facilities, or commercial recreation.

11 AAC 55.222. Water Resources Land. Land classified water resources is land encompassing watersheds or portions of watersheds and is suitable for such uses as water supply, watershed protection, or hydropower sites.

11 AAC 55.230. Wildlife Habitat Land. Land classified wildlife habitat is land which is primarily valuable for:

A. fish and wildlife resource production, whether existing or through habitat manipulation, to supply sufficient numbers or diversity of species to support commercial, recreational, or traditional uses on an optimum sustained yield basis; or

B. a unique or rare assemblage of a single or multiple species of regional, state, or national significance.

Relationship of Designations to Classifications and Conversion of Plan Designations into Classifications

The classifications contain no specific land management directives; those directives are expressed through the use of plan designations, described in detail for individual parcels included in Chapter 3. However, the designations used in the area plan must be converted

into classifications outlined in state regulation (11AAC 55) that reflect the intent of the plan.

Since plan designations are central to the management of state land in this area plan, knowledge of the amount of area associated with particular designations is important, allowing a comparison between plan designations and classifications. Table 4-1 identifies the acreage associated with the designations recommended in this plan, specified for upland and tideland tracts. Descriptions of each of the following designations are also provided in Chapter 3 pages 2-5. Note: Acreages associated with plan classifications are given in Table 4-3.

TABLE 4-1(a): ACREAGES ASSOCIATED WITH UPLAND DESIGNATIONS

Symbol	Designation	Acreage
Gu	General Use	586,350
Ma	Materials	90
Pr	Public Facilities - Retain	31,934
Ru	Public Recreation and Tourism - undeveloped	13,497
Rd	Public Recreation and Tourism - developed	7
S	Settlement	980
Sc	Settlement-Commercial	554
W	Water Resources	695

TABLE 4-1(b): ACREAGES ASSOCIATED WITH TIDELAND, SUBMERGED LAND, AND SHORELAND DESIGNATIONS

Symbol	Designation	Acreage
Gu	General Use	2,835,117
Ha	Habitat	273,054
Pr	Public Facilities - retain	1,846
Ru	Public Recreation and Tourism - undeveloped	321,348
Sd	Shoreline Use	9,571
Wd	Waterfront Development	1,492

The conversion of land use designations used by this plan into state land classifications is indicated in the two tables below. These are intended to identify the allowable uses of a state upland or tideland area, consistent with the definitions described previously and with any management intent given in Chapter 3.

TABLE 4-2(a): UPLAND DESIGNATIONS -- CONVERSION TO CLASSIFICATIONS

Symbol	Designation	Classification
F	Forestry	Forest land
Gu	General Use	Resource management land
Ha	Habitat	Wildlife habitat land
Hv	Harvest	Wildlife habitat land
Hr	Heritage Resources	Heritage resources land
Ma	Materials	Material land
Pr	Public Facilities - Retain	Reserved use land
Pt	Public Facilities - Transfer	Resource management land
Rm	Resource Management - high value	Resource management land
Ru	Public Recreation - undeveloped	Public recreation land
Rd	Public Recreation - developed	Public recreation land
S	Settlement	Settlement land
Sc	Settlement - Commercial	Settlement land
W	Water Resources	Water resources land

TABLE 4-2(b): TIDELAND, SUBMERGED LAND, AND SHORELAND DESIGNATIONS -- CONVERSION TO CLASSIFICATIONS

Symbol	Designation	Classification
F	Forestry	Forest Land
Gu	General Use	Resource management land
Ha	Habitat	Wildlife habitat land
Hv	Harvest	Wildlife habitat land
Pr	Public Facilities - Retain	Reserved use land
Pt	Public Facilities - transfer	Resource Management Land
Rd	Public Recreation – developed	Public Recreation Land
Rm	Resource Management - high value	Resource management land
Ru	Public Recreation - dispersed use	Public recreation land
Sd	Shoreline Use	Settlement land
Wd	Waterfront Development	Waterfront development land

PUBLIC TRUST DOCTRINE

See the Management Intent for Navigable Rivers section at the end of Chapter 3.

SURFACE LEASING

Under the authority of AS 38.05 and 11 AAC 58.300-.350, state land within the planning area is available for surface leasing, provided that the leasing is allowed under the classification and is consistent with the management intent set forth in this area plan.

Applications for uses of state land within the planning area will be considered by the Regional Manager, Department of Natural Resources, Division of Mining, Land and Water, Southeast Region, 400 Willoughby Avenue, Suite 400, Juneau, AK 99801.

CLASSIFICATION ORDER

State land is classified under the authority of AS 38.04.005, AS 38.05.300, and 11 AAC 55.010 - 11 AAC 55.280 according to the management intent set forth in this area plan.

Classification Order SE-01-02 classifies all state lands within the plan area. See Appendix C. Lands not specifically classified in the plan maps or plan text are classified General Use (Gu), except for areas within Glacier Bay National Park, which is classified Public Recreation Land. The estimates of acreage classified within this park are not included in the following table.

Table 4-3 provides estimates of the acreage by classification for uplands and tidelands.

TABLE 4-3: ACRES OF STATE LANDS CLASSIFIED

Classification	Upland Acreage	Tideland and Submerged Land Acreage
Materials land	90	
Public recreation land	13,504	321,348
Reserved use land	31,934	1,846
Resource management land	586,350	2,835,117
Settlement land	1,534	9,571
Water resources land	695	
Waterfront development land		1,492
Wildlife habitat land		273,054
Totals	634,107	3,442,464

Note that the total of the sum of the figures above is larger than the acreage total for all parcels. Units that are co-designated with two or more designations are counted for each designation under which they are co-designated.

SPECIAL USE DESIGNATIONS

Special Use Designations are used whenever it is necessary to establish specific requirements for uses of state lands that would otherwise be permitted less than 11 AAC 96.10. This section of administrative code specifies those uses that require or do not require a permit for the authorization of a use on state land. It also provides under 11 AAC 96.10(a)(2) and 11 AAC 10(b) that DNR may, through the use of a Special Use Designation, extract a certain use(s) from the list of Generally Allowed Uses (GAU) that would otherwise be authorized without permit, and require that this use(s) receive an authorization to occur. Special Use Designations usually affect a specific type of use and are usually confined to specific geographic areas. They also usually specify conditions or standards that must be satisfied by the affected use(s). Two special use designations affect state land within the planning area. With the single exception of an area on Kruzof Island north of Sitka, the SUDs affect lands within the Haines Area.

Special Use Designation ADL 106859

Special Use Designation (ADL 106859), included as Appendix D, affects certain types of commercial recreation activities and recreational facility types. Uses affected by this Special Use Designation must, to receive authorization, meet the specific conditions of the SUD, and for areas within parcels, must be consistent with the management intent in Chapter 3. The uses that are affected by the SUD are described more fully in the Special Use Designation.

It should be noted that this SUD works in combination with a similar Special Use Designation applied in the Haines State Forest Plan. The latter is also applied since this SUD (ADL 106859) is limited to the general state lands, and many of the recreational uses that are of concern to DNR occur on lands within the State Forest, which is controlled through the Haines State Forest Plan.

Special Use Designation ADL 106939

Included as Appendix F, this SUD manages certain forms of commercial helicopter operation within the Haines area. It precludes most forms of commercial tours and specifies allowed landing areas as well as other management requirements for heli-skiing operations. The SUD affects state land in the Haines State Forest as well as large areas of general state land adjacent to parts of the Forest. It also establishes the basis for the management of such operations in areas of state selected land when federal land is conveyed to the state. Lands affected by the SUD are depicted in a map that is included in the SUD and in the Resource Allocation Table for the Haines Area (Uplands).²

These Special Use Designations must be re-evaluated in five years from its date of adoption.

² Specifically, the SUD affects the following parcels: H-01, H-02, H-03, H-04, H-07, and H-08.

ALASKA COASTAL MANAGEMENT PROGRAM

The state and district's Alaska Coastal Management Program (District programs include the City/Borough of Sitka and cities of Angoon, Haines, Hoonah, Pelican, and Skagway.) will be implemented through the coastal consistency review process described under Title 46 of the Alaska Statutes and associated regulations. State actions within the coastal zone must be consistent with the provisions of the Alaska Coastal Management Plan and, within the boundaries of the aforementioned municipalities, with district Coastal Management Plans.

MUNICIPAL ENTITLEMENT

The Municipal Entitlement Act (AS 29.65) establishes the state land classification categories that determine a municipal general grant land entitlement and identify what lands are available for transfer to a municipality. The term "municipality" includes both incorporated cities and organized boroughs. The size of a municipality's entitlement is 10 per cent of the vacant, un-appropriated, unreserved (VUU) state uplands within the municipal boundaries. The lands entitled to municipalities have almost entirely been conveyed by the state.

Within the planning area, the cities of Skagway and Port Alexander, and both the Haines and Sitka boroughs have been eligible to receive land from the state under this Act. The entitlement of each of these entities is fulfilled, except for a small amount in the Haines Borough. Pelican has received a legislative entitlement. Tenakee received state land under a court ordered settlement.

The formation of new cities and the creation (or expansion) of boroughs have been under active consideration for some time, and are likely to continue to be an issue. The designations of settlement, settlement-commercial, public recreation, and general use in this plan are to form the basis for the definition of VUU lands within these areas under the Municipal Entitlement Act. It should be noted that certain of the parcels within the previous listing are not available for selection. The management intent statement of each parcel within these designations must be carefully reviewed since, at times, all or portions of these parcels are recommended for retention by the state.

LAND SELECTIONS AND SELECTION PRIORITIES

National Forest Community Grant

Section 6(a) of the Alaska Statehood Act entitles the state to select 400,000 acres of vacant, un-appropriated land from the national forest (Tongass and Chugach), referred to as National Forest Community Grant Lands (NFCG). The state has made three sets of selections between 1977 and 1994. Of the original entitlement, 340,076 acres have been conveyed or tentatively approved (TA) for conveyance to the state. Of these lands, 233,636 acres are within the Tongass National Forest, with the remainder (106,440) in Chugach National Forest. An additional acreage has been selected (71,282 acres) up to the total allowed in the act, but has yet to be conveyed to the state. Table 4-4 identifies the

tracts of land selected for conveyance, conveyed, or tentatively approved for conveyance to the state within the planning area.

The federal government has not adjudicated all of the selections submitted by the state, with 8 tracts totaling 4,177 acres remaining in selection status. Because the outstanding selections of Native corporations may not be adjudicated for some time, the state has been allowed to make what are termed "over selections," totaling 40,000 acres, since it is unlikely that all of the selections submitted by the state will be approved. Some areas will not be conveyed to the state because of federal reservations and the presence of Native corporation selections (which overlap in some instances and may take precedence over the state selections).

Because not all selections can be received, the state has developed a listing of selection priorities (A, B, and C, with A being highest). Table 4-5 identifies the remaining selections within the planning area, which total 4,177 acres. The selections fall within the A and C categories (1,175 and 3,002 acres respectively). It is not unusual for state selections to be filed over (or 'on top of') Native selections under the authority of 906e of ANCSA. However, there are no such conflicts within the NSEAP planning area. The table, in addition to the principal selections of larger tracts, identifies what are termed 'small or residual' selections or in holdings. These residual selections are portions of selections that are in holdings within existing NFCG conveyed lands.

General Grant Land Selections

Under the Statehood Act, Alaska is entitled to approximately 130 million acres of federal land. Most of the planning area adjoins or is within the Tongass National Forest, and state selections have occurred under the National Forest Community Grant selection program, described above. Only the Haines and Skagway Areas lie outside the Tongass National Forest, and in that area over 125,000 acres of federal land have been selected. Some of this land has been conveyed to the state, but much remains to be conveyed. The areas noted as 'state selected' land on the Plan Maps for the Haines and Skagway Areas depict those areas of federal land selected for eventual conveyance to the state.

Not all of the state selected lands depicted on these maps will be conveyed to the state. This will result from the presence of competing Native corporation selections and because the state has been allowed to select more than it will actually receive (in order to account for likely Native corporation selections and title restrictions). In response to this uncertainty, the Department has identified selection priorities, identified as Tiers I, II, III, and IV. The lowest two tiers are not likely to be conveyed to the state. Lands in these tiers occurs in the both the Skagway and Haines areas, with much of the more remote tracts belonging to Tiers III and IV. The state's annual Conveyance Priority List does not include selections³ within the Skagway and Haines areas, and therefore it is unlikely that federal land will be conveyed to the state in the short term. The Area Plan recommends certain

³ State-selected land occurs within parcels H-02 (8,131 acres), H-03 (9,700 acres), H-08 (2,827 acres), S-01 (92863 acres), and S-17 (10840).

changes to the current (2002) prioritization of state selections for individual parcels⁴. Consult the Resource Allocation Tables for the Northern Region which includes the Haines and Skagway areas to review the recommended changes. Recommended changes in selection priority are identified in the management intent language for specific parcels.⁵

TABLE 4-4: STATUS OF NFCG SELECTIONS

NFCG	Area Name	TA/Patent Selection	Comment
307	Big Bear/Little Bear		SMP
224	Biorka Island	TA	
177	Cape Bingham	TA/PAT	Most conveyed to UAA
166	Chilkat Islands	TA	
397	Chilkoot, North	SEL	
398	Chilkoot, South	SEL	
217	Chaichei Island	TA	All conveyed to C/B Sitka
125	Excursion Inlet, North	TA/PAT	
126	Excursion Inlet, South	TA/PAT	
310	Elfin Cove	SEL	
018	Funter Bay	TA/PAT	Partly SMP
313	Funter Bay	TA	
213	Game Point Addition	REJECTED	
123	Game Point	REJECTED	
216	Gavanski Island	TA	All conveyed to C/B Sitka
114	Goddard Hot Springs	PAT	Most conveyed to C/B Sitka
029	Green Lake	PAT	All conveyed to C/B Sitka
220	Halibut Point Addition	TA	
212	Horse Island	PAT	
252	Idaho Inlet	TA	
221	Indian River	TA	
302	Indian River Additions	TA	
324	Katzehin River	SEL	
168	Kalinin Bay	TA	
214	Kennel Creek	TA	
305	Lisianski/Nakwasina	TA	
304	Lisianski/Kattian	TA	

⁴ Changes in selection ranking are recommended for parcels: H-02 and H-03. See management intent language in Resource Allocation Table.

⁵ See footnote #3 on previous page.

TABLE 4-4(CONT'D) : STATUS OF NFCG SELECTIONS

NFCG	Area Name	TA/Patent Selection	Comment
323	Lynn Sisters	TA	
306	Magoun Islands	TA	Area is a SMP
218	Middle Island Group	TA	Party conveyed to C/B Sitka
176	Pavlov Harbor	TA	
122	Pelican	TA	
120	Port Alexander	TA/PAT	Part conveyed to City of Port Alexander
167	Sullivan Island	TA	
128	Sullivan Harbor	TA	
322	Sullivan Harbor Addition	TA	
186	Takatz Lake	SEL/TA	All conveyed/to be conveyed to C/B Sitka
308	Tenakee/Frederick Portage	SEL	
021	Tenakee Springs	TA/PAT	
309	Tenakee Inlet-Goose Flats	SEL	
011	Thimbleberry, Starrigavin	PAT	
210	William Henry Bay	TA	

TABLE 4-5: REMAINING NFCG SELECTIONS

NFCG	Area Name	Current Priority	Proposed Priority	Reg/Vill Selection	Acreage	Other
398	Chilkoot Inlet, South	C-16	C-16		260	PLO 5603 affects parcel. Selected for ferry development purposes; site no longer required.
397	Chilkoot Inlet, North	C-16	C-16		400	PLO 5603 affects parcel. Selected for ferry development purposes; site no longer required.
324	Katzehin River	B	C		615	PLO 5603 affects parcel. Selected for community recreation
21	Tenakee Springs	A	A		25	Residual selection
186	Takatz Lake	A	A		1,113	
308	Tenakee – Frederick Portage	C-9	C-9		535	Selected for conservation purposes, wildlife protection, community recreation, and marine park. Can be managed equally effectively under Tongass National Forest
309	Tenakee – Goose Flats	C-10	C-10		1,192	Selected for public recreation and marine park. Can be managed equally effectively under Tongass National Forest
310	Elfin Cove	A	A		37	Residual Selection
Total					4,177	
Total Top filed					0	

	A	B	C
Total by Priority:	1,175	0	3,002
Areas Top filed:	0	0	0

COORDINATION WITH FEDERAL LAND MANAGEMENT

Most uplands in the Southern Area lie within the Tongass National Forest, managed by the U.S. Forest Service, and those in the Northern Area, adjacent to areas of federal land administered by the Bureau of Land Management. The management of federal land within the National Forest is provided through the Tongass Land and Resource Management Plan (TLRMP), which was recently revised following extensive public review. The TLRMP is now under appeal.

The NSEAP only makes decisions for state lands. However, the tideland and upland recommendations of this plan have been coordinated with the U.S. Forest Service.⁶ State land designations were reviewed against those contained in TLRMP, and are believed to be generally compatible with the TLRMP management prescriptions that adjoin state land. Land authorizations that are to be undertaken by the state will be made compatible with the federal upland management prescriptions to the extent practicable and if consistent with the overall best interest of the state. Tideland management decisions by the state shall consider the adjacent upland uses permitted under TLRMP and state decisions (land disposal, timber harvest, land leases) shall consider the effects of these actions on adjacent federal land.

MINERAL ORDER

Alaska Statute 38.05.185 requires the Commissioner of DNR to determine that mineral entry and location is incompatible with significant surface uses in order to close state-owned lands to mineral entry. This plan and Mineral Closing Order 770 closes 2,300 acres to new mineral location in those state tracts proposed for settlement during the planning period, designated for some public use or facility (airport, boat launch, etc.) or open space (Kochu Island, Pyramid Island), or recommended for inclusion in the state marine park system (Sea Lion Cove, Pavlov Harbor). See Appendix B, the proposed Mineral Closing Order, and the *Mineral Resources* section in Chapter 2 for a further description of these proposed actions.

PROPOSED ADDITIONS TO THE STATE MARINE PARK SYSTEM

Proposed additions to the State Marine Park System, totaling 8,039 acres, were described at length in the specific parcel descriptions in Chapter 3 and are also listed in Table 4-6. These five areas were determined to have unique scenic, heritage, and recreation values, usually related to marine-oriented recreation. All are situated along the coast. They are recommended for consideration as additions to the state marine park system, requiring legislative action. Until such action occurs, the Division of Mining, Land and Water shall manage these parcels under the Undeveloped Recreation (Ru) designation and with the

⁶ The recommendations of the NSEAP were also reviewed with the Bureau of Land Management; the state selected land in the Haines and Skagway areas is not covered by a land and resource management plan similar to that of the Tongass National Forest.

management intent identified for each of the specific tracts. The proposed additions to the state marine park system are identified in Table 4-6.

TABLE 4-6: PROPOSED ADDITIONS TO THE STATE MARINE PARK SYSTEM

Unit #	Region/Area	Name of Unit	Acreage
H-39	Northern, Haines Area	Couverden Islands	1,403.1
H-39	Northern Haines Area	Mainland Adjacent to Couverden Islands	2,747.08
H-30	Northern, Haines Area	Mainland nr. Lynn Islands, Lynn Canal	1,358.12
B-02,B-03, B-04	Southern, Baranof Island Area	Sea Lion Cove	2,103.1
C-27	Southern, Chichagof I. Area	Pavlov Harbor	427.95
Total			8,039.35

PROCEDURES FOR PLAN CHANGES

The various kinds of changes allowed in 11 AAC 55.030 are:

"A revision to a land use plan is subject to the planning process requirements of AS 38.04.065. For the purposes of this section and AS 38.04.065, a 'revision' is an amendment or special exception to a land use plan as follows:

An 'amendment' permanently changes the land use plan by adding to or modifying the basic management intent for one or more of the plan's subunits or by changing its allowed or prohibited uses, policies, or guidelines. For example, an amendment might close to new mineral entry an area that the plan designated to be open, allow a land use in an area where the plan prohibited it, or allow land to be opened to homestead entry in an area that the plan designated for retention in public ownership.

A 'special exception' does not permanently change the provisions of a land use plan and cannot be used as the basis for a reclassification of the subunit. Instead, it allows a one-time, limited-purpose variance of the plan's provisions, without changing the plan's general management intent or guidelines. For example, a special exception might be used to grant an eligible applicant a preference right under AS 38.05.035 to purchase land in a subunit designated for retention in public ownership. A special exception might be made if complying with the plan would be excessively burdensome or impractical or if compliance would be inequitable to a third party, and if the purposes and spirit of the plan can be achieved despite the exception.

A minor change to a land use plan is not considered a revision under AS 38.04.065. A 'minor change' is a change that does not modify or add to the plan's basic intent, and that serves only to clarify the plan, make it consistent, facilitate its implementation, or make technical corrections. Authority: AS 38.04.065, AS 38.04.900, AS 38.05.020, AS 38.05.300."