



July 10, 2019

**SUBJECT: NOTICE OF ADOPTION OF THE KUSKOKWIM AREA PLAN AMENDMENT
and ASSOCIATED LAND CLASSIFICATION ORDER SC-88-001A21**

The Commissioner of the Department of Natural Resources (DNR) adopted the Kuskokwim Area Plan (KUAP) Amendment and associated Land Classification Order (LCO) SC-88-001-A21 as a final plan on July 10, 2019. These documents, associated maps and an Issue Response Summary (IRS) can be viewed online at the DNR Planning website: <http://dnr.alaska.gov/mlw/planning>. The IRS addresses issues identified during the comment period for the Public Review Draft (PRD) and indicates what changes are made to the PRD as a result of those comments.

The KUAP amendment and associated LCO provides management guidance and classifies currently unclassified state-owned lands that were not in state ownership at the time that the original KUAP was adopted. The area of the proposed plan amendment includes blocks of state-owned and state-selected lands and navigable waters within Management Units 10 and 11 of the KUAP. Additionally, this amendment clarifies the classification and management intent for navigable waterbodies that cross or are surrounded by non-state-owned land.

Based upon noticing of the described actions above, as follows are request for reconsideration procedures in accordance with 11 AAC 02:

A person affected by this decision may request reconsideration, in accordance with 11 AAC 02. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov. Under 11 AAC 02.030, appeals and requests for reconsideration filed under 11 AAC 02 must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a) and (b). If reconsideration is not requested by that date or if the commissioner does not order reconsideration on their own motion, this decision goes into effect as a final order and decision on the 31st calendar day after the date of issuance. Failure of the commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

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

**Proposed
Kuskokwim Area Plan
Area Plan Amendment
SC-88-001A21**

**Management Unit 10 - George River
Subunit 10b – Horn Mountains-Upper George River
Subunit 10c – Kuskokwim River
Subunit 10d – Moose Creek**

**Management Unit 11 - Swift River
Subunit 11a - Swift-Babel-Tatlawiksuk**

related to

ADLs 231908, 232152, 232199, 232200, 232360, 232361, 232362, 232363, 232364, 232365, 232366,
232368

The Commissioner of the Department of Natural Resources finds that the following amendment, described more fully in the Attachment, to the Kuskokwim Area Plan meets the requirements of AS 38.04.065 and 11 AAC 55.010-030 for land use plans and hereby adopts the amendment. The Department of Natural Resources will manage State lands within the areas of the revision consistent with these designations and management intent.

Management Unit 10 – George River

- Resource Information Summary found on page 3-91 of the KUAP will be updated for Materials; changed from “Unsuited” to “Moderate to high potential, with improved access.”

Subunit 10b - Horn Mountains-Upper George River

- Designation: Minerals and Wildlife Habitat
- Classification: Mineral Land and Wildlife Habitat Land
- Acreage: Addition of approximately 270,849 acres
- Management Intent: No change. The state-owned and state-selected lands in this subunit will be retained in state ownership and managed for multiple use including mining, habitat, and recreation.

Subunit 10c – Kuskokwim River (New Subunit)

- Designation: Waterfront Development
- Classification: Waterfront Development Land
- Acreage: Approximately 50 acres
- Management Intent: Lands within this subunit have been identified as suitable for landing along the Kuskokwim River upriver from Jungjuk Creek, with potential for the development of a port. Subsistence and public recreation activities occur within the river corridor and the adjacent uplands. The Kuskokwim River is anadromous. This subunit will be managed for waterfront development, transportation, subsistence and sport fishing, and public recreation, with emphasis on economic development, maintaining public access, maintaining water quality, and minimizing impacts to anadromous fish habitat. The state-owned riverbeds and shorelands of the Kuskokwim River in this subunit will be retained in state ownership and

Kuskokwim Area Plan Amendment

SC-88-001A21

Page 1 of 10

remain open to mineral entry.

Subunit 10d – Moose Creek (New Subunit)

- Designation: Resource Management
- Classification: Resource Management Land
- Acreage: Approximately 83,077 acres
- Management Intent: This subunit comprises a block of state-selected land with little access and low to moderate resource values. The lands within this subunit will be retained in state ownership and managed for general multiple use.

Subunit 11a - Swift-Babel-Tatlawiksuk

- Designation: Wildlife Habitat
- Classification: Wildlife Habitat Land
- Acreage: Addition of approximately 116,160 acres
- Management Intent: No change. This subunit will continue to be managed for fish and wildlife habitat and harvest.

Chapter 2 - Materials

- Management Intent (pg. 2-23): Last sentence replaced with, “Recent geotechnical studies related to mining exploration and development indicate suitable material resources exist in the areas of Jungjuk Creek, Getmuna Creek and Junigguira Mountain. These resources have moderate to high potential for development if access from the Kuskokwim River were to be improved.”

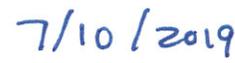
Chapter 2 - Stream Corridors and Instream Flow; Management Guidelines for Stream Corridors

- Add the following text, “Guideline K. Navigable and Anadromous Waterbodies. The beds of navigable waterbodies are state-owned and are subject to the guidelines of the plan in addition to the Public Trust Doctrine as defined by the Alaska Constitution, statutes, court decisions, and public involvement. Anadromous streams and lakes are to be designated Habitat and those rivers and lakes that are particularly significant for public recreation are to be 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 Resource Management – General Use. 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. In the event that the navigability status is unknown or comes into question, 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.”

Concur: 
 Martin W. Parsons, Director
 Division of Mining, Land and Water


 Date

Approved: 
 Corri A. Feige, Commissioner
 Department of Natural Resource


 Date



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

Proposed
Kuskokwim Area Plan
Area Plan Amendment
SC-88-001A21
Management Units 10 and 11
Management Subunits 10b, 10c, 10d, and 11a

Location: Comprised of state-owned and state-selected lands within the central Kuskokwim Mountains. See Map 1 of this attachment.

Authority: The authority to revise plans derives from AS 38.04.065(b) and 11 AAC 55.030(f), which also defines when a change to a plan requires a plan amendment. The authority to classify and reclassify land is assigned to the Department of Natural Resources under AS 38.05.300.

Background: The Department of Natural Resources has concurrently released Preliminary Decisions for a number of authorization applications related to the proposed Donlin Gold, LLC mine project (ADLs 232199, 232200, 231908, 232152, 232360, 232361, 232362, 232363, 232364, 232365, 232366, 232368). Before certain management decisions for State land can be made, the land must first be classified, per 11 AAC 55.040(i) and AS 38.05.300. This amendment will classify recently acquired state-owned and state-selected lands and waters within and near the proposed project area through a separate but associated action.

Current Plan: The lands subject to this amendment were not addressed in the 1988 Kuskokwim Area Plan (KUAP). Following the adoption of the KUAP in 1988, the lands addressed by this amendment were selected for potential conveyance to the state to fulfill its outstanding land entitlement. Some of these selected lands have subsequently been conveyed to the state. As such, the KUAP does not currently classify or provide management intent for any of the lands or waters described by this amendment. General management intent is provided for some navigable waterbodies within the KUAP boundary, but specific management intent is necessary for waters along the Kuskokwim River where waterfront development may occur, and where navigable waterbodies cross or are surrounded by non-state-owned lands.

Proposed Plan Amendment: This amendment proposes to classify currently unclassified state-owned lands that were not in state ownership at the time that the KUAP was adopted, as well as state-selected lands and state-owned riverbeds and shorelands in the amendment area. The area of the proposed plan amendment includes blocks of state-owned and state-selected lands and navigable waters within Management Units 10 and 11 of the KUAP. Most of these blocks will be incorporated into existing Subunits 10b – Horn Mountains-Upper George River and 11a – Swift-Babel-Tatlawiksuk. One block will comprise a new subunit, to be identified as Subunit 10d – Moose Creek. This amendment will also classify a portion of the state-owned riverbeds and shorelands of the Kuskokwim River, which will be identified as Subunit 10c – Kuskokwim River. Additionally, this amendment will clarify the classification and management intent for navigable waterbodies that cross or are surrounded by non-state-owned land.

The majority of the lands addressed by this amendment are within the KUAP; however, approximately 67,832 acres of land are located outside but immediately west of the existing KUAP boundary. This land will

be incorporated into Subunit 10b and the KUAP boundary will be adjusted to include these lands. See Map 2 of this attachment.

The Division of Mining Land and Water proposes designating approximately 270,849 acres of land with a primary designation of Minerals and a secondary designation of Wildlife Habitat (Subunit 10b). This acreage includes the lands that currently lie outside the planning boundary but will be incorporated into Subunit 10b through the boundary adjustment proposed by this amendment. DMLW also proposes designating approximately 83,077 acres Resource Management (new Subunit 10d), approximately 50 acres Waterfront Development (new Subunit 10c), and approximately 116,160 acres Wildlife Habitat (Subunit 11a).

Adjacent and nearby KUAP Subunits 10b - Horn Mountain-Upper George River and 11a - Swift-Babel-Tatlawiksuk provide management intent that is appropriate for most of the unclassified blocks of land affected by this amendment. Therefore, these lands will be incorporated into the aforementioned existing subunits, thus increasing the overall acreage of these subunits. Approximately 270,849 acres of newly designated Minerals and Wildlife Habitat land will be added to Subunit 10b and approximately 116,160 acres of newly designated Wildlife Habitat land will be added to Subunit 11a. The management intent for Subunits 10b and 11a will remain unchanged. Subunit 10b will continue to be retained in state ownership and managed for multiple uses, with an emphasis on mining, wildlife habitat, and recreation. Subunit 11a will continue to be managed for fish and wildlife habitat and harvest.

Since the KUAP was adopted in 1988, knowledge of the resources present throughout the planning area has improved significantly, especially within Subunit 10b. In consideration of modern geotechnical data available, this amendment will update language specifically pertaining to material resources within the amendment area. The final sentence of the Background subsection under the Land Allocation Summary for Material resources found on page 2-23 of the KUAP will be removed and replaced with the following: “Recent geotechnical studies related to mining exploration and development indicate suitable material resources exist in the areas of Jungjuk Creek, Getmuna Creek and Junigguira Mountain. These resources have moderate to high potential for development if access from the Kuskokwim River were to be improved.” This amendment will also update the Management Unit 10 – George River Resource Information Summary found on page 3-91 of the KUAP. The Material resource information for Subunit 10b will be changed from “Unsuited” to “Moderate to high potential, with improved access.”

This amendment also proposes the creation of two new subunits in Management Unit 10; 10c – Kuskokwim River, and 10d – Moose Creek. Subunit 10c will encompass the Kuskokwim River, as measured from bank-to-bank from Ordinary High Water, within Section 29, Township 20 North, Range 49 West, Seward Meridian. Although the water column itself is not included in this subunit, islands and exposed gravel bars are included. Subunit 10c will encompass approximately 50 acres of land, all of which will be designated as Waterfront Development. Lands within this subunit have been identified as suitable for landing along the Kuskokwim River upriver from Jungjuk Creek, with potential for the development of a port. Subsistence and public recreation activities occur within the river corridor and the adjacent uplands. The Kuskokwim River is anadromous. The management intent for this subunit will be to manage the area for its transportation, waterfront development, public recreation, and anadromous habitat values, with emphasis on economic development, maintaining public access, and maintaining water quality. The state-owned riverbeds and shorelands in this subunit will be retained in state ownership and remain open to mineral entry. The Areawide Land Management Policies located in Chapter 2 provide specific management guidance for making decisions within this subunit.

Subunit 10d – Moose Creek will comprise approximately 83,077 acres of land designated Resource Management. This land was selected after the adoption of the KUAP for a potential access corridor between the Kuskokwim and George Rivers. In the event that these lands are conveyed to the State, the lands within this subunit will be retained in state ownership and managed for general multiple use, with specific management guidance provided by the Areawide Land Management Policies in Chapter 2.

This plan amendment will also clarify statements about navigable waterbodies because there are a number of locations where navigable waterbodies are surrounded by non-state-owned land within the proposed amendment area. Navigable waterbodies are defined as lakes and rivers that meet federal and state criteria for navigability. Under the Equal Footing Doctrine, the Alaska Statehood Act, and the Submerged Lands Act, the state owns land under navigable water bodies. This definition applies regardless of surrounding land ownership. This amendment will classify and clarify the management intent for the riverbeds and shorelands under navigable waterbodies associated with the Donlin Gold, LLC project. 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).

Currently, the KUAP provides general management intent statements related to navigable waters within the plan boundary. A new Management Guideline for Stream Corridors will be added to the Stream Corridors and Instream Flow section of Chapter 2. The following, under Management Guidelines “K” will read as follows “K. Navigable and Anadromous Waterbodies. The beds of navigable rivers are state-owned and are subject to the guidelines of the plan in addition to the Public Trust Doctrine as defined by the Alaska Constitution, statutes, court decisions, and public involvement. Anadromous streams and lakes are to be designated Habitat and those rivers and lakes that are particularly significant for public recreation are to be 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 Resource Management – General Use. 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. In the event that the navigability status is unknown or comes into question, 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.”

The lands affected by this amendment are as follows:

Subunit 10b – Horn Mountains – Upper George River

- Township 20N, Range 49W, SM, Sections 4, 5, 6, and 7;
- Township 21N, Range 49W, SM, Sections 25, 34, 35, and 36;
- Township 21N, Range 50W, SM, Sections 13-36;
- Township 22N, Range 46W, SM, Sections 2-11, 17-21, and 27-30;
- Township 22N, Range 47W, SM, Sections 1, 11-13, and 24-26;
- Township 22N, Range 50W, SM, Sections 2-11, and 14-33;
- Township 23N, Range 47W, SM, Sections 1, 2, 5, 6, 11-15, 22-27, and 33-36;
- Township 23N, Range 48W, SM, Sections 1, 2, 11, and 12;
- Township 23N, Range 49W, SM, Sections 2-9, 16-20, and 29-32;
- Township 23N, Range 50W, SM, Sections 1-18, 23-26, and 35-36;
- Township 24N, Range 46W, SM, Sections 4-9, 16-21, and 28-33;

Township 24N, Range 47W, SM, Sections 1-36;
Township 24N, Range 50W, SM, Sections 1, 2, 6-8, and 10-36;
Township 25N, Range 46W, SM, Sections 1-36;
Township 25N, Range 47W, SM, Sections 1-36;
Township 25N, Range 48W, SM, Sections 1, and 11-36;
Township 25N, Range 49W, SM, Sections 13, 14, and 22-36.

Subunit 10c – Kuskokwim River (new subunit)

Township 20N, Range 48W, SM, Section 29.

Subunit 10d – Moose Creek (new subunit)

Township 21N, Range 38W, SM, Sections 7 and 18;
Township 21N, Range 39W, SM, Sections 4-10, 13-16, and 22-24;
Township 21N, Range 40W, SM, Sections 1-6, 11 and 12;
Township 21N, Range 41W, SM, Section 1;
Township 22N, Range 40W, SM, Sections 30-35;
Township 22N, Range 41W, SM, Sections 5-10, 15-18, 21-23, 25-28, and 35-36;
Township 22N, Range 42W, SM, Sections 1, 2, and 12;
Township 23N, Range 41W, SM, Section 31;
Township 23N, Range 42W, SM, Sections 1-3, 11-14, 23-26, and 35-36;
Township 24N, Range 42W, SM, Sections 1-11, 14-22, 26-28, 30, 31, and 33-35;
Township 24N, Range 43W, SM, Sections 1-30, and 32-36.

Subunit 11a – Swift-Babel-Tatlawiksuk

Township 20N, Range 36W, SM, Sections 1-4, 7-10, 16-18, 30-32;
Township 20N, Range 37W, SM, Sections 5-9, 12-18, 20-23, 25-29, 33-36;
Township 21N, Range 36W, SM, Section 36;
Township 21N, Range 37W, SM, Sections 1-7, 18-20, 28-34;
Township 21N, Range 38W, SM, Sections 1-2, 11-15, 25-29, 32-36;
Township 22N, Range 35W, SM, Sections 3-9, 17 and 18;
Township 22N, Range 36W, SM, Sections 13, 14, and 21-36;
Township 22N, Range 37W, SM, Sections 5-9, 12-18, 20-23, 25-29, 33-36;
Township 22N, Range 37W, SM, Sections 13, 14, 24, and 25;
Township 23N, Range 34W, SM, Sections 4-9, and 17-19;
Township 23N, Range 35W, SM, Sections 3-10, 12-30, and 34-36;
Township 23N, Range 36W, SM, Sections 12, 13, 24, and 25;
Township 24N, Range 34W, SM, Sections 1-4, and 7-36;
Township 24N, Range 35W, SM, Sections 27-29, and 31-34.

Explanation: In accordance with Chapter 4 of the KUAP, the land use designations and management guidelines may be changed if conditions warrant and as social, economic, and environmental conditions place different demands on state land.

The amendment area is within and directly adjacent to the boundary of the Kuskokwim Area Plan; however, the specific lands encompassed by ADLs 231908, 232152, 232199, 232200, 232360, 232361, 232362, 232363, 232364, 232365, 232366 and 232368 are not currently classified. DMLW is proposing to classify

the area encompassing the ADLs specified above through an Area Plan Amendment and Land Classification Order (LCO) SC-88-001A21. The classifications, designations, and management guidelines proposed in this amendment only apply to state-owned and state-selected lands and waters. In the event that state-selected lands are conveyed to the state, those lands will be classified according to this Area Plan Amendment and LCO.

Some lands proposed for inclusion into the KUAP by this amendment are located outside the existing plan boundary. Therefore, this amendment will extend the western boundary of the plan in order to classify these lands in the KUAP. As per AS 38.04.065, DNR is responsible for adopting, maintaining, and revising area plans that provide for the use and management of state-owned lands. Amending the boundary of the KUAP is appropriate because it will allow DNR to better manage state-owned land in the area. Incorporating these lands into the adjacent subunit is appropriate because altogether they comprise a block of land that was selected for its mineral potential. The adjacent subunit provides management intent that is consistent with the intent for these lands at the time that they were selected by the state.

The management intent for Subunit 10b was written to reflect the high mineral potential in the area, particularly in the Horn Mountain and Russian Mountain areas, as well as wildlife habitat and public recreation values. The lands proposed for inclusion into Subunit 10b are situated in mineralized areas and are open to mineral entry. Subsistence activities and public recreation continues to occur in the subunit, as well as on the lands added to the subunit through this amendment. The management intent provided in the KUAP describes material resources as unknown and inaccessible, and therefore termed, "Unsuitable". However, data collected after the adoption of the KUAP indicates that potential material resources exist in this subunit and have been geographically located. Material site development may be appropriate in areas where these resources occur or where they are accessible. Classifying these lands as Mineral Land and Wildlife Habitat Land is appropriate because the resource values on these lands are consistent with those of Subunit 10b.

The management intent for Subunit 11a was written to reflect the habitat values and harvest activities that occur in the area. Suitability for settlement and forestry is low, as is mineral potential. The lands proposed for inclusion into Subunit 11a occupy an area adjacent to the northeast block of the subunit along the Tatlawiksuk, Swift, and Cheeneetnuk River drainages. These rivers and their tributaries contain a variety of anadromous and resident fish species. Trapping and hunting activities occur along these drainages. Inclusion of these lands into Subunit 11a and applying a classification of Wildlife Habitat Land is consistent with the existing management intent.

This amendment proposes the addition of a new subunit entitled Subunit 10c – Kuskokwim River. The creation of this new subunit will classify and provide management intent for the state-owned riverbeds and shorelands for this portion of the Kuskokwim River, which will allow DNR to make land management decisions in the future. A proposed use for the waters in this subunit and the adjacent uplands is the construction of a port to support operations related to the Donlin Gold, LLC project. Classifications of Waterfront Development Land will be applied to these lands. Public access within this subunit will be maintained and these lands will remain open for mineral entry.

This amendment also proposes the addition of a new subunit entitled Subunit 10d – Moose Creek. The creation of this new subunit will classify and provide management intent for the state-selected lands and waters in and around the Moose Creek drainage. These lands are remote, and access is limited. The resource values of this land are considered low to moderate. These lands were selected for the purpose of providing a potential access corridor between the Kuskokwim and George River drainages. The lands within this subunit

will be retained in state ownership and managed for general multiple use. These lands will remain open to mineral entry.

This amendment proposes revising the management intent language for navigable waterbodies within Management Units 10 and 11. The modifications to the classifications and management intent of navigable waterbodies is appropriate because 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. Furthermore, 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. Management of all rivers and lakes are subject to AS 38.05.126 as defined in AS 38.05.965(13) and AS 38.05.965(18).

Assessment: DMLW proposes to designate approximately 270,849 acres of land as Minerals and Wildlife Habitat. Approximately 67,832 acres of the lands to be designated Minerals and Wildlife Habitat lie outside and directly west of the plan boundary and will be added to the planning area. DMLW also proposes designating approximately 83,077 acres of land Resource Management, approximately 116,160 acres of land Wildlife Habitat, and approximately 50 acres of land with designations of Waterfront Development. These changes will also result in the creation of two new Subunits, entitled Subunit 10c – Kuskokwim River, containing approximately 50 acres, more or less; and 10d – Moose Creek, containing approximately 83,077 acres, more or less. In total, this amendment designates approximately 470,136 acres of state and state-selected lands.

There are two alternative courses of action: either retain the existing KUAP as originally adopted in 1988 or amend the KUAP with the designations and management intent recommended in the ‘Proposed Plan Amendment’ section above. In the former instance, approximately 470,136 acres of state-owned and state-selected lands would remain unclassified and would disallow the issuance of the authorizations associated with the ADLs specified above; this alternative is not preferred. The latter course of action, amending the KUAP, is the preferred alternative and recommended course of action. Amending the plan is the preferred alternative, as it will classify approximately 470,136 acres of currently unclassified state-owned and state-selected lands and provide clear guidance on the management of these lands. This is in the best interest of the state.

AS 38.04.065(b) Requirements: The eight factors identified in AS 38.04.065(b) have been considered in the Amendment Decision for SC-88-001A21. The proposed amendment is deemed to be consistent with this portion of the statute.

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER

LAND CLASSIFICATION ORDER
NO. SC-88-001A21

- I. Name: Plan Amendment to Management Unit 10 - George River, Subunit 10b – Horn Mountains-Upper George River, Subunit 10c – Kuskokwim River; Subunit 10d – Moose Creek; Management Unit 11 - Swift River, Subunit 11a - Swift-Babel-Tatlawiksuk of the Kuskokwim Area Plan.
- II. The Classification identified in Part III is based upon the following:
- A. Kuskokwim Area Plan (KUAP), adopted May 19, 1988
 - B. Area Plan Amendment and Map (attached)

Legal Description	Subunit	Acreage	Acquisition Authority	Existing Classification	Classification by This Action
Various	10b – Horn Mountains-Upper George River	270,849 acres, more or less	General Grants 5378, 5949, 5962, 5963, 5964, 5965, 5966, 5978, 5979, 5980, 5981, 6423, 6430, 6432, 6435, 6436, 6437	None	Mineral Land, Wildlife Habitat Land
Shorelands and navigable waters of Kuskokwim River within Section 29, Township 20 North, Range 49 West, Seward Meridian	10c – Kuskokwim River	50 acres, more or less	Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340)	None	Waterfront Development Land
Various	10d – Moose Creek	83,077 acres, more or less	General Grants 5947, 6421, 6429, 5958, 5959	None	Resource Management Land
Various	11a – Swift-Babel-Tatlawiksuk	116,160 acres, more or less	General Grants 5368, 5923, 5934, 5939, 5940, 5941, 5945, 5955, 6416, 6420	None	Wildlife Habitat Land
Navigable waters and shorelands of within KUAP	Various	Various	Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340)	None	Various

- 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 designated and classified as indicated. Nothing shall prevent the reclassification of these lands if warranted in the public interest.

Classified: _____

Corri A. Feige, Commissioner
Department of Natural Resources

Date

7/10/2019

FOR

A person affected by this decision may request reconsideration, in accordance with 11 AAC 02. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov . Under 11 AAC 02.030, appeals and requests for reconsideration filed under 11 AAC 02 must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a) and (b). If reconsideration is not requested by that date or if the commissioner does not order reconsideration on their own motion, this decision goes into effect as a final order and decision on the 31st calendar day after the date of issuance. Failure of the commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

MAP 1

Kuskokwim Area Plan Amendment SC-88-001A21

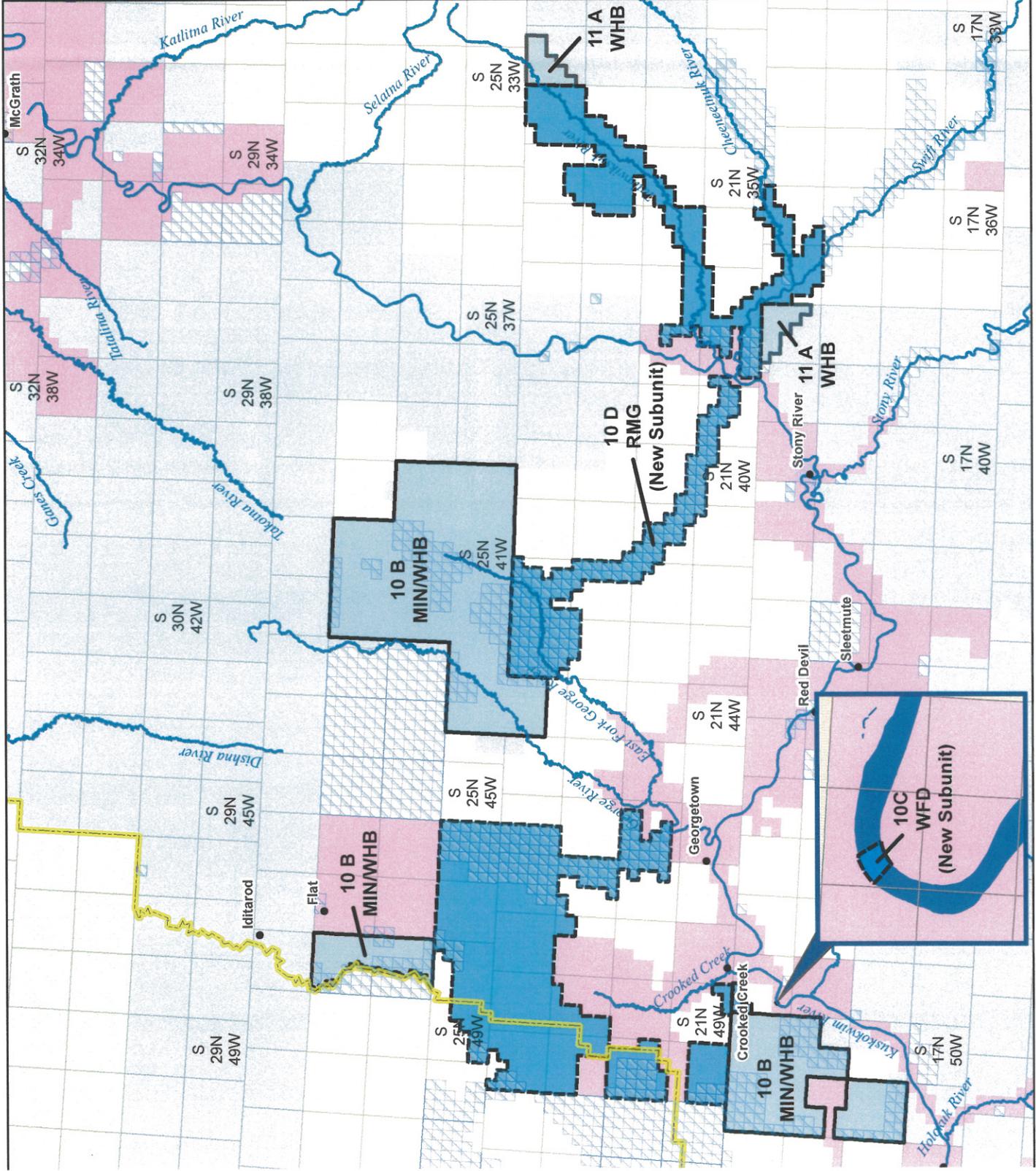
 KUAP Boundary 1988

Lands Affected by Amendmen

-  Existing Subunits
-  Lands to be Classified

Other Land Status

-  State Lands
-  Native Lands
-  BLM Lands
-  USFWS Lands



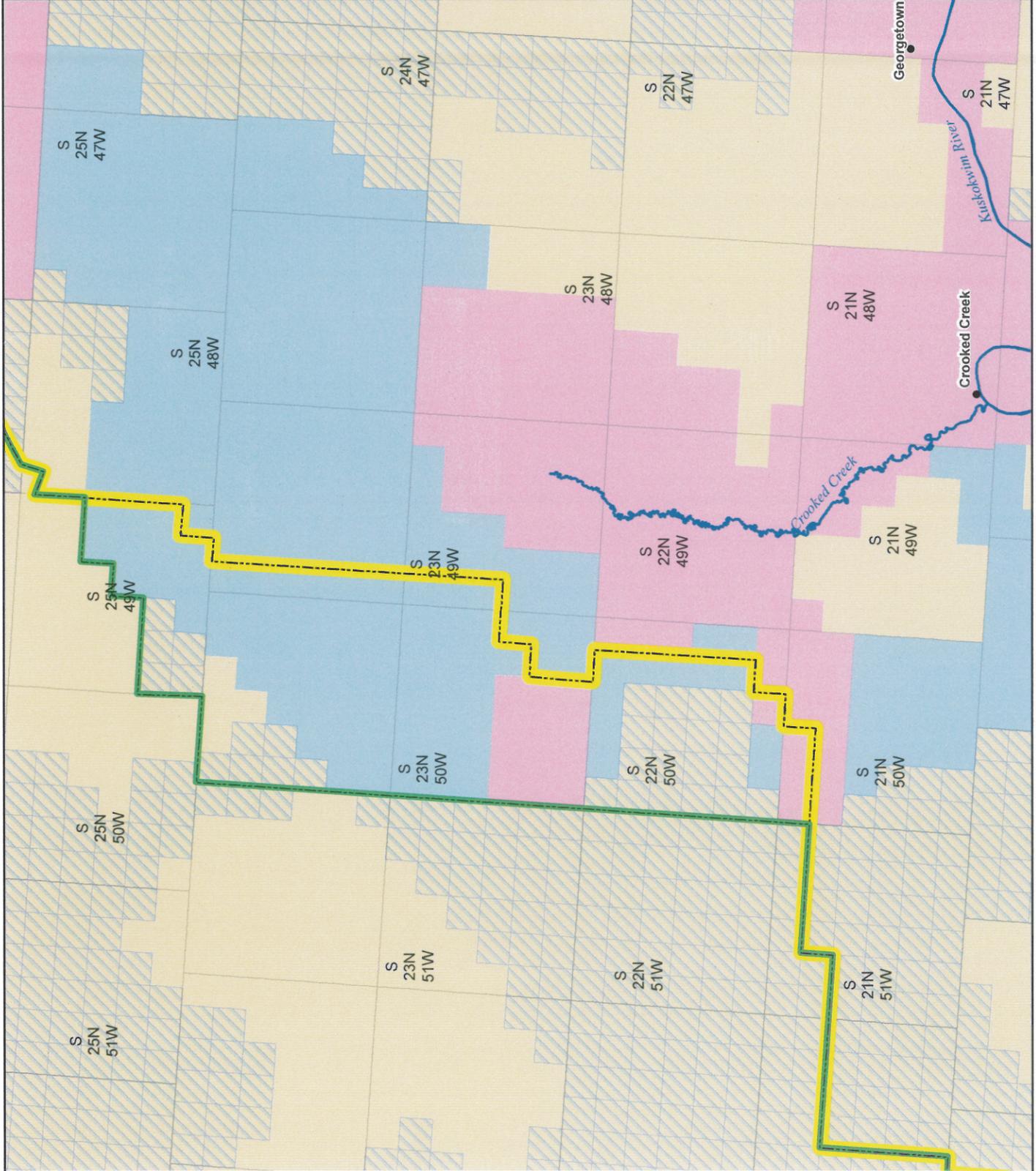
This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



MAP 2
Kuskokwim Area
Plan Amendment
SC-88-001A21



Land Status



This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.

Created By: SOA-DNR-DMLW-
 Resource Assessment and Development
 January 2019

Issue Response Summary
 Kuskokwim Area Plan Amendment SC-88-001-A21
 June 11, 2019

	Subject	Issue	Response	Recommendation
1	Map 1	Labeling error; Subunit "10C" shown as "11C"	Concur; Subunit "11C" label is depicted incorrectly on Map 1.	Correct label on Map 1 to read "10C".
2	Consistency with AS 38.04.065(b)	Multiple comments pertained to planning and classification steps listed under AS 38.04.065(b). Specifically, that DNR provides no explanation of how the amendment is consistent with (1), (3), and (5) of the subsection. Additionally, DNR's action is inconsistent with (8) by not providing meaningful participation through public hearings or consultation with local governments during the plan amendment process, and by only seeking public comment for 60 days.	<p>Per AS 38.04.065(b), classifications and management intent for these lands reflect consideration for their present and potential uses based on projected use patterns and new and existing resource information. Where appropriate, the management intent recognizes the potential for resource development, while also considering existing uses, consistent with multiple use and sustained yield principles.</p> <p>Meaningful participation was provided to affected local governments, state and federal agencies, adjacent landowners, and the general public. DNR first noticed and sought input regarding lands affected by the Donlin project from August 31 until October 17, 2016. The public review draft of the KUAP amendment was released on January 28, 2019 for public review and the comment period closed March 29, 2019. Public meetings were held during the comment period in Anchorage, Aniak, Bethel, McGrath, Tyonek, and Nikolai. This action was noticed consistent with AS 38.04.065 and AS 38.05.945 requirements. This amendment was developed and released for public review and comment concurrent with the proposed Donlin authorizations so the public could consider all related actions together.</p> <p>Because there were unclassified lands within the boundary of the existing Kuskokwim Area Plan, an amendment is the appropriate way to address the classification or reclassification of lands. This amendment process was typical and exceeded the requirements of AS 38.04.065 and 11 AAC 55.010- 55.280.</p>	No change.

3	Consistency with Area Plans	<p>Amendment process is not consistent with the KUAP plan process in 1988 or the Bristol Bay Area Plan process in 2013 by not similarly involving area residents.</p>	<p>This amendment was initiated by DNR and did not result from a court action, as is the case with the Bristol Bay Area Plan Amendment. The two processes are not comparable, as the impetus is different for each amendment. The scope of this amendment is considerably smaller in scale and focused on areas where surface authorization applications require classification to enable their adjudication. This amendment is consistent with AS 38.04.065 and 11 AAC 55.010- 55.280 and resulted from updated resource information and projected use patterns in the area. There were multiple opportunities provided to participate in the amendment process.</p>	No change.
4	Management intent of resources	<p>The Area Plan will allow for substantial changes to the Kuskokwim region, including activities directly associated with the Donlin project, as well as future activities resulting from this shift towards developing the region. Allowing expanded development uses and authorizing supporting facilities such as airstrips, port facilities, and access roads threatens the current subsistence uses around those areas and encourages development even beyond the life of the Donlin project.</p>	<p>The KUAP amendment was initiated because there were unclassified lands in an area where DNR had received requests for various authorizations. State lands require classification under a land use plan for several types of authorizations to occur. Changes to the management intent reflect updated and more precise information on the resources present, current interest in the area, and the potential for development since the 1988 plan. The amendment does not authorize activities, it simply provides management direction that is used to inform adjudicators when making decisions for uses on state lands.</p>	No change.