

DOCUMENT 2 - ISSUES

NANCY LAKE STATE RECREATION AREA PROPOSED MANAGEMENT RECOMMENDATIONS AND ALTERNATIVES

INTRODUCTION

This document provides information on the issues addressed in the proposed management recommendations and access alternatives. The format consists of an issue statement that briefly describes the issue, pertinent background information on each issue, and closes with a summary of facts and management recommendations.

1) Docks and other Structures

Issue

The 1983 Plan lacks guidance for DPOR to follow when adjudicating applications for docks and other structures. DPOR must determine what types of structures are appropriate for construction on and within water bodies within NLSRA and what size the structures should be. A riparian property owner¹ has a modified right to wharfage. Such owners have a right to construct a dock to provide access to navigable water; however, DPOR has the responsibility to ensure that the dock does not unduly impede use of the water body by other people. The modified right to wharfage may not apply to some other types of structures that have been built at NLSRA however. Some of these other structures may facilitate recreation within NLSRA from the adjacent private lands and may be appropriate. Similar to docks, these other types of structures must also be permitted before they are constructed within NLSRA.

This is an important issue since extensive private development has already occurred and is expected to continue. Private structures constructed within water bodies of the recreation area occupy an area of the public trust resource - the waters of NLSRA. Each private structure effectively reduces the area where the people can recreate within NLSRA. The modified right to wharfage shared by inholders and property owners contiguous² with the boundary of NLSRA must be balanced with the public trust responsibilities of the State and the purposes for which this area was legislatively designated.

Background

Statutes specific to NLSRA provide for the identification of incompatible uses within the recreation area and specified that those incompatible uses be prohibited or restricted as provided by regulation. NLSRA specific regulations do not identify docks and other structures as incompatible, nor do they prohibit or restrict docks or other structures. State-wide regulations require a permit prior to the construction or maintenance of a structure within a state park but do not identify which structures are appropriate or provide standards to be followed when

¹ "Riparian Property Owner" is defined for the purpose of this document as a person who owns property that is located on the bank of a waterbody.

² "Contiguous" is defined for the purpose of this document as those parcels that are outside of NLSRA, but share a common boundary with NLSRA.

adjudicating an application for a permit. The 1983 Plan did *not* determine the compatibility of the many different types of structures, including docks, at NLSRA and did not include guidance for staff to use when adjudicating applications for new structures.

Absent statute, regulation, or policy guidance, DPOR relied upon the standards contained within the Alaska Coastal Management Program (ACMP) Generally Consistent Determination (GCD) 15A when adjudicating applications for dock structures. Under GCD-15A, the size of a dock was limited to 400ft² and had to conform to other standards to receive expedited review. If a dock did not conform to GCD-15A standards it did not receive expedited review and would only be permitted by DPOR if certain extenuating circumstances existed. The ACMP program ended in 2011 and DPOR no longer relies on the ACMP application review process and GCD-15A standard. Many other types of structures were not addressed by ACMP's generally consistent determinations and DPOR lacks a policy on appropriate standards.

11 AAC 12.140 requires a permit to construct or maintain a dock or structure within the recreation area. While it is not known how many docks or other structures were in existence at the time of NLSRA creation in the summer of 1966, a dock inventory conducted in 1972 identified 49 docks on Lynx, Butterfly, Red Shirt, and Nancy lakes. A second inventory of docks began in 2009 is expected to be completed soon. This latest inventory reveals that 416 docks have been constructed with only 23 of them having received authorization from DPOR.

The average size of a dock has more than doubled (from around 138ft² in 1972 to 376ft² in 2009) while the number of docks has increased over eight-fold (from 49 in 1972 to 416 in 2009). Based on the most recent inventory, approximately 72% of the existing dock structures are 450ft² or less. The latest survey does not account for many other structures that are commonly found on water bodies adjacent to private properties. These other structures include decks, boat ramps, walkway/gangway, gabions, and boat lifts among others. The total area occupied by docks and other structures at each private property will probably rise once all private structures are accounted for as the most recent inventory is completed.

One private commercial marina was operated on Nancy Lake. No other commercial marinas have been operated in NSLRA. 11 AAC 12.300 requires a permit issued under 11 AAC 18.010 for all commercial activities in a state park. Docks and other structures used in conjunction with commercial use of the adjacent upland are considered a commercial activity. Typically these docks are associated with the rental of an upland private structure on a daily, weekly, or monthly basis. While it is not presently known to occur, building a single dock for the purpose of renting moorage would also be considered a commercial activity.

Summary of Facts and Proposed Management Recommendations

In 1972 the first known inventory of docks was completed for Nancy, Skeetna, Lynx, Butterfly, and Red Shirt lakes. That inventory documented 49 docks in existence 6 years after NLSRA was established. The 2009 dock inventory, currently under development, has documented 416 docks so far. The average size of a dock has more than doubled from 138ft² in 1972 to 376ft² in 2009. Few of the current docks, around 23, have been authorized for construction by DPOR.

Enabling statutes for NLSRA provide DPOR authority to identify incompatible uses and prohibit or restrict those identified uses as provided by regulation. DPOR has determined that many structures that facilitate recreation or wharfage from privately owned land within and contiguous to the boundary of NLSRA are compatible with the purpose of NLSRA. However, some other types of structures may not be compatible and will be prohibited by regulation. DPOR is proposing to continue to allow construction of structures on and within water bodies of NLSRA adjacent to private lands but will establish standards that will place a limit on the size, location, and type of these structures.

DPOR proposes to establish a 450ft² standard for all docks and structures constructed or maintained on water bodies inside NLSRA. This square footage standard strikes a balance between the private right to wharfage and the public right to access and use water bodies and mirrors the upper end of the standard alternative measures contained in the now obsolete ACMP GCD-15A. Private structures will only be authorized to be constructed within the area of riparian interest of the applicant's property. This standard will ensure that all new structures will not impact access and use of adjacent private land. Other standards that affecting docks and other structures are also presented.³ These standards will be applied on all state water bodies within NLSRA where adjoining private lands are located and will ensure that all people are treated equally.

Standards that apply to private docks and structures also apply to commercial uses. DPOR is proposing to recognize and allow small scale commercial use if appropriate commercial authorizations are obtained. DPOR also proposes to allow a private commercial marina on Nancy Lake where that use has occurred in the past.

Document 3 details the proposed management recommendations that address private and commercial docks and other structures. These specific recommendations address the identified issues while maintaining the public trust responsibilities and purpose for which NLSRA was designated. You are invited to review and comment on any aspect of the proposed recommendations.

2) **Existing Unpermitted Structures**

Issue

Hundreds of structures have been constructed or maintained within NLSRA without a permit required by 11 AAC 12.140. Early discussions on this issue focused primarily dock structures; however, subsequent analysis revealed that the issue needed to be expanded to include all other types of structures placed without a permit in NLSRA. This is because many other types of structures have also been built without the required DPOR permit. These other structures include gabions, bulkheads, crib docks, boat launches, and boat lifts to name a few. Few people commented on docks or other unpermitted structures during the scoping process but this issue was discussed at length in subsequent meetings with property owners, owner groups, and the

³ The list of standards may be expanded in the draft Management Plan as a result of public review and comment of the standards contained in Document 3. If added, these standards are intended to provide increased specificity on the type and configuration of structures and docks that may be constructed within NLSRA.

Mat-Su/Copper Basin Area State Parks Citizen Advisory Board. These subsequent meetings underscored the public interest in DPOR policies affecting existing unpermitted docks.

Similar to the issue of new docks and structures, this issue is particularly pertinent in areas where a high level of private development has already occurred. These existing private structures constructed within water bodies of the recreation area occupy an area of the public trust resource - the waters of NLSRA. Each private structure effectively reduces the area where the public, other land owners included, can recreate within NLSRA. As stated previously, the modified right to wharfage must be balanced with the public trust responsibilities of the State, the right of the public to use of the resource, and the purposes for which this area was legislatively designated.

Background

The 1983 Plan did *not* determine that docks and other structures were incompatible uses and does not include guidance for staff to address existing unpermitted structures. 11 AAC 12.12.140 requires a permit to construct or maintain a structure within the recreation area. While it is not known how many docks or other structures were in existence at the time of NLSRA creation in the summer of 1966, a dock inventory conducted in 1972 identified 49 docks on Lynx, Butterfly, Red Shirt, and Nancy lakes. A second inventory of docks began in 2009 and is not yet completed. This latest inventory revealed that 416 docks had been constructed with only 23 of them having received authorization from DPOR. It also identified numerous other types of structures that had been constructed or maintained without the required authorization. These structures include decks, boat ramps, gabions, and boat lifts among others. The size of many of these other structures has not been determined but some are known to be quite large.

Summary of Facts and Proposed Management Recommendations

Hundreds of docks and other structures have been constructed within NLSRA without the benefit of a permit issued by DPOR. Many of the docks are of the size and type that could have been permitted if the owner had applied for an authorization. Some structures, however, are of a size and type that it is doubtful they would have been permitted even if the owner had applied for an authorization. The 1983 Plan did not address docks and other types of structures that could be built by private property owners and did not determine the compatibility of these uses.

DPOR is proposing to recognize existing unpermitted structures as non-conforming structures. These existing structures may continue to exist, but cannot be enlarged in size. A number of standards that allow for maintenance of non-conforming structures are also proposed. These standards will address the identification, maintenance, expansion and reduction, and relocation of non-conforming structures.

Document 3 details the proposed management recommendations that address existing unpermitted structures. These recommendations recognize and allow non-conforming structures but place certain limits on what can be done to them. You are invited to review and comment on any aspect of the recommendation and standards.

3) **Moorage of Boats Adjacent to Private Uplands**

Issue

Hundreds of boats are moored long-term on state waters within NLSRA in apparent violation of current regulations⁴. DPOR recognizes that moorage of a boat adjacent to private property is a common and widespread use and is consistent with the modified right to wharfage⁵ for riparian property owners. DPOR would like to remove the burden on the public to contact or make application to DPOR for this type of use. Similarly, DPOR would like to remove the administrative burden to adjudicate applications for this use as long as it is being conducted consistent with the modified right to wharfage.

This issue differs from long-term moorage of boats on state waters adjacent to state uplands. Long term moorage of boats adjacent to state uplands that facilitate access to private property will be identified in a subsequent section of this document.

Background

The 1983 Plan did *not* address the long-term moorage of boats or make a determination of compatibility of this type of use. 11 AAC 12.220 requires a person wishing to leave a vehicle (boat) or camping equipment in an undeveloped area more than 72 hours to make advance arrangements with a state park officer. 11 AAC 18.010 requires a person to get a permit prior to placing personal property (including a boat) within a state park. Mooring a boat long term adjacent to private uplands is not addressed in NLSRA specific regulations. 11 AAC 12.335 – the regulation that address anchoring and mooring - only addresses moorage of a boat on salt water.

Over 500 private parcels are within or contiguous to NLSRA and all but a few of these properties have frontage on state water bodies. Many of these lakefront properties have at least one boat moored on the surface waters for extended periods during the summer months. To date, no boats have been authorized to be moored long-term on state waters adjacent to private uplands.

Summary of Facts and Proposed Management Recommendations

Long-term moorage of boats adjacent to private property is a common use on lakes across Alaska where private land is located is consistent with a riparian owners modified right to wharfage. This type of use has been occurring at NLSRA but has not been authorized by Special Park Use Permit, nor have advance arrangements been made with park officers for this use to occur. Current regulations require people to acquire a permit prior to leaving a boat moored long-term on state waters adjacent to their upland property.

DPOR is proposing to allow moorage of boats adjacent to private uplands without a permit. This action would eliminate the current administrative and public burden of making advance arrangements and/or obtaining a permit as required under current regulations. Although the

⁴ 11 AAC 12.220 and 11 AAC 18.010

⁵ "Wharfage," for the purpose of this document, is generally used to mean the use of a wharf (dock or similar structure) to tie up vessels to receive and discharge cargo and passengers.

number of boats that can be moored at a private property will not be limited under this recommendation, all boats would be required to be moored within the riparian interest⁶ of the upland property owner.

Document 3 details the proposed management recommendations that address long term moorage of boats. These specific recommendations recognize a common and widespread use while reducing the administrative burden to the agency and the public. It allows the use by property owners to continue where that use is common and has occurred in the past. You are invited to review and comment on any aspect of the proposed recommendations.

4) Property Storage and Boat Moorage at Red Shirt Lake

Issue

Private land owners on, and in the area of, Red Shirt Lake have stored boats and personal property on state uplands and moored boats on state waters for many years. There are an estimated 30 boats moored on the surface of the lake adjacent to state lands. An additional estimated 20 boats and an unspecified amount of other personal property is being stored on the state uplands adjacent to the moorage site. While the 1983 Plan analyzed and evaluated access to Red Shirt Lake, the plan did not make a specific management recommendation regarding property owner access and did not address boat moorage or personal property storage. As a result, the number of boats moored on state waters adjacent to state uplands and the amount of personal property and boats placed on state uplands has increased over time.

Reviews of the moorage and storage sites within NLSRA revealed increased amounts of personal property being stored on state uplands and boats being moored on state waters. Several boats were found grounded on the bed of the lake with their gas cans floating and tethered to the motor by a gas line. Others are moored to the shore and not grounded out, but still have their fuel tanks within the hull of the boat or on the platform of the barge. Some people remove their gas tanks and store them on the adjacent state upland. Of the tanks that are removed from the moored boats, some are stored in lockable storage containers while others are merely stored in, under, or beside stored boats and other property being stored long-term on the state uplands. Based on the number of motorized boats being moored or stored, the potential exists for hundreds of gallons of fuel to be at the Red Shirt Lake moorage and storage site.

Background

Approximately 30 boats are currently moored long-term on state waters adjacent to state uplands on the western shore of Red Shirt Lake at the terminus of the Red Shirt Lake Summer Trail. This moorage is in apparent violation of current regulations (11 AAC 12.220 and 11 AAC 18.010). Many of these boats facilitate access to private lands that are within NLSRA or that are contiguous with the boundary but are outside of NLSRA. In some instances, boats are being moored on state waters adjacent to state uplands to facilitate access to private lands

⁶ Riparian Interest – For the purpose of this document, riparian interest is defined as the surface area of the water, bounded by a projection of the property lines toward the middle of a water body where riparian rights can be exercised. Riparian rights include the right to access the waterfront and the modified right to wharfage (i.e. docking a boat).

located adjacent to NLSRA in the area of Cow Lake and Fish Creek. These adjacent private lands don't share a boundary with NLSRA, but are generally within a mile of the boundary. Some of these boats are moored on state waters for weeks or possibly months while the owners are away from their properties. While exact numbers are not known, some boats have been left unattended by owned by people that do not own property in the area. See *Figure 1 – Property Storage and Boat Moorage Sites* for a depiction of moorage and storage sites within NLSRA. The Red Shirt Lake moorage and storage sites are indicated on Inset 2 of that figure.

Personal property that facilitates access to private property is being stored on state uplands adjacent to areas where boats are being moored. This stored property includes boats, storage boxes, oars, personal floatation devices, batteries, fuel, and other relatively small items. Most of this property is being stored in the riparian habitat, usually within 50ft of the shoreline of the water body at this site. See *Figure 1 – Property Storage and Boat Moorage Sites* Inset 2 on page 20 for a depiction of the Red Shirt Lake storage site.

The 1983 Plan did *not* address the long-term moorage of boats or make a determination of compatibility of this type of use. 11 AAC 12.220 requires a person wishing to leave a vehicle (boat) or camping equipment in an undeveloped area more than 72 hours to make advance arrangements with a state park officer. 11 AAC 18.010 requires a person to get a permit prior to placing personal property (including a boat) within a state park. Mooring a boat long term adjacent to state uplands and storing personal property on state uplands are not addressed in NLSRA specific regulations. 11 AAC 12.335 – the regulation that address anchoring and mooring - only addresses moorage of a boat on salt water.

Summary of Facts and Proposed Management Recommendations

Currently, boats are moored on state waters and personal property is stored on state uplands at the terminus of the Red Shirt Lake Summer Trail. These types of uses have occurred for many years and may have pre-dated designation of the recreation area by the Legislature although the moorage and storage occurred at a different location. The 1983 Plan did not specifically address boat moorage or property storage at the Red Shirt Lake site. Absent any specific guidance these uses have continued to increase on state land and waters.

Long-term moorage of boats on state waters and storage of personal property on state uplands by property owners on Red Shirt Lake and the surrounding area has occurred for some time. DPOR is proposing to authorize moorage and storage by property owners on Red Shirt Lake at the existing site on the west shore of the lake at the terminus of the Red Shirt Lake Summer Trail. Moorage and storage by people that do not own property in this area will be prohibited. The size and number of boats, the type of property that can be stored, and storage methods will be restricted. If a future determination finds that the resources of NLSRA are being unduly impacted by these uses, authorizations for storage and moorage may be capped, reduced, or eliminated.

Document 3 details the proposed management recommendations that address boat moorage and personal property storage at Red Shirt Lake. These proposed recommendations allow the use to

continue for property owners on Red Shirt Lake. You are invited to review and comment on any aspect of the proposed recommendations.

5) **Access on Lynx Lake Road and Butterfly Lake Trail During Summer Months**

Issue

Many people commented on the use of ATV's as an access method within NLSRA and more particularly on Butterfly Lake Trail. Many of the commenter's raised concerns about impacts related to the use of ATV's and the appropriateness of their use within the recreation area. Others indicated that they have used ATV's for access to private property for many years, decades in some cases, and want to continue the authorized use. Few people commented on the use of highway vehicles on the Lynx Lake Road beyond the traffic control gate near the NLSRA boundary. Only a few people commented on the use of state land and water for boat moorage and property storage for private inholders or for those people that own property outside of NLSRA in the area of Butterfly and Delyndia lakes.

State land and water are being increasingly used for moorage of boats and storage of personal property by property owners within and beyond the boundary of NLSRA. This increased moorage and storage is resulting in increased impacts to the natural resources and occupies land and water within NLSRA. These increasing impacts are a result of the 1983 Plan recommendation that directs DPOR continue to provide access for property owners but did not clearly identify which private property owners or how many would be authorized access on Lynx Lake Road and Butterfly Lake Trail.⁷ That same recommendation restricted (motorized) access to property owners only during the summer months.

Due to the lack of specific guidance in the 1983 Plan recommendation, impacts to resources are occurring and have the potential to increase significantly as lands outside of NLSRA are developed and sold. While the 1983 Plan articulated a policy to continue to permit access to property owners that had been using the Lynx Lake Road for access; it did not determine which property owners should be permitted or how many permits would be issued, nor did it identify what types of access or other uses would be permitted to facilitate that private access. This has resulted in increasing numbers of property owners seeking authorizations to use ATV's and highway vehicles for access and a corresponding increases in boat moorage on state waters and increased boat and personal property storage on state uplands. While access methods, particularly ATV's, were the focus of early discussion on this issue; it became clear that boat moorage and property storage on state land and water in support of private property access are significant issues that also needed to be addressed in this plan revision.

As part of this planning process DPOR must address the ambiguities found in the current recommendation regarding access on Lynx Lake Road and will re-evaluate to provision to restrict public access on that route. Once DPOR has determine its responsibility, if any, to provide access to private properties on Lynx Lake Road and Butterfly Lake Trail; DPOR must

⁷ At the time of the creation of the 1983 Plan, Lynx Lake Road and Butterfly Lake Trail were identified as a single route and were indicated as "Lynx Lake Road" in that plan (see page 38 of the 1983 Plan).

determine the appropriate methods of access, who should be provided access, and where that access should be provided.

Background

In this background section, information for each component of this issue is provided under individual headings.

Access on Lynx Lake Road and Butterfly Lake Trail

Lynx Lake Road leaves the Parks Highway and travels west and south across private and general state land before it enters NLSRA. A small, minimally developed parking area is located just within the NLSRA boundary on Lynx Lake Road. A traffic control gate is located at the western end of the parking area. Once inside NLSRA, the road continues approximately 3 miles before it terminates on private property owned by the Anchorage Church of Christ on the eastern shore of Lynx Lake. From this private property, the route continues to the northeast shore of Butterfly Lake. This portion of the route is commonly referred to as the Butterfly Lake Trail.

During winter the gate on Lynx Lake Road is open allowing use of the road and Butterfly Lake Trail by all people when snow cover is sufficient to allow the use of snowmobiles. After snow cover deteriorates and the area south of the Nancy Lake Parkway is closed to the use of snowmobiles, the traffic control gate on Lynx Lake Road is closed and locked. During snow free periods, some private property owners on Lynx, Skeetna, Butterfly, and Delyndia lakes are authorized to use a highway vehicle or ATV on Lynx Lake Road and Butterfly Lake Trail to provide full or partial access to their private land.

Currently, there are 134 private parcels in the area of Butterfly, Skeetna, Lynx, and Delyndia lakes that could be granted access consistent with the 1983 Plan recommendation. Of these private lands, several are “large” private tracts that could be subdivided at a future date. If the approximately 600 acres of these large private tracts are developed to the standard allowed in Borough code there could be over 150 additional waterfront lots⁸ plus hundreds of interior lots^{9,10}. In addition to the developable private lands, there are approximately 2,500 acres of Matanuska Susitna Borough (Borough) land surrounding the private parcels at Delyndia and

⁸ Waterfront lots are those lots that have frontage on a water body.

⁹ Interior lots are those lots that do not have waterfront within a platted subdivision.

¹⁰ The calculations for potential lots on private and Borough lands were based on the assumption that these lands would be fully utilized and therefore yielded the maximum number of lots. These calculations do not consider land uses other than rural residential. The number of lots were determined in the following manner:

- Waterfront lots were determined by dividing the linear feet of waterfront for existing large private tracts on Butterfly and Delyndia lakes by 125' (the minimum standard lot width without onsite community sewage). The depth of lots was estimated from depth of existing lots.
- Interior lots were determine by estimating the remaining acreages and dividing that sum by 40,000ft² (the minimum lot size without onsite community sewage and water supply).

Parcels on Borough land were determined by adding all acreages of Borough lands and dividing that sum by 40,000ft² (the minimum lot size without onsite community sewage and water supply).

Cow lakes. Using the same assumptions, the potential for private lot development exists on these Borough lands as well. Assuming all Borough lands in the area around Butterfly, Delyndia, and Cow lakes are developed as private lots there could be more than 2,700 new lots in addition to those that could be developed on private lands. See *Figure 2 - Private and Borough Lands within 2 Miles of NLSRA Boundary* on page 21 for a depiction of these properties.

To date, over 130 permits with keys have been issued authorizing full or partial access via highway vehicles or ATV's beyond the gate to 31 private property owners on Lynx, Butterfly, Skeetna, and Delyndia lakes. The keys that are associated with permits are distributed as follows: 52 keys are issued to the Anchorage Church of Christ bible camp on Lynx Lake, 18 keys issued to Lynx Lake property owners, 46 keys issued to Butterfly Lake property owners, 13 keys issued to Delyndia Lake property owners, and 4 keys issued to Skeetna Lake property owners.

Statutes specific to NLSRA do not specifically address access for private property owners or the recreating public. The statutes do provide that the area is to be managed as public recreation land and that incompatible uses shall be designated by regulations.¹¹

The 1983 Plan did *not* determine that use of highway vehicles and ATV's were incompatible uses and no NLSRA specific regulations prohibit use of these vehicles within NLSRA. However, statewide park regulations (11 AAC 12.020) regulate where vehicles of this type may be used. Page 42 of the 1983 Plan included an analysis of Lynx Lake access that speaks to private access but not public access, it states:

“The Lynx Lake road provides private access to authorized users who lived within and beyond NLSRA and were using the road for access to their property at the time of the recreation area's establishment in 1966.”

The resulting management recommendation on page 84 of the 1983 Plan does address use of Lynx Lake Road. It directs DPOR to:

“...not contribute to the maintenance of the Lynx Lake Road. It shall remain gated at the recreation area boundary and its use restricted to existing property owners authorized and holding access permits issued by the Director or designee.”

For the last 29 years DPOR has been managing access on Lynx Lake Road and Butterfly Lake Trail consistent with the intent of this recommendation. While DPOR has been managing access in this area consistent with the intent of this recommendation, continuing to do so may have serious long-term consequences primarily through increased vehicular access and parking (highway and ATV) for property owners, increased storage of personal property on state uplands, and increased moorage of boats on state waters. The result has been increased use of public land and waters parking, boat moorage, and storage of personal property used to facilitate access to private lands, most of which is located outside of NLSRA.

¹¹ Alaska Statutes 41.21.450 & 41.21.455

To address the potentially significant issues related to access on these routes, DPOR must address the shortcomings of the 1983 Plan recommendation regarding access on Lynx Lake Road. That recommendation did not establish an upper limit of permits to be issued, the method of access was not identified, and it does not address the very serious issue of property storage on state uplands or boat moorage on state waters in support of private access. Furthermore, the statement “within and beyond” used in the analysis of access indicates that access was intended to be provided for people within and outside of NLSRA but the specific area outside (“beyond”) was not identified. Absent an analysis or detailed discussion of existing access methods used by property owners or the public in the two preceding plans, DPOR has reviewed existing documents dating back to 1972 as well as more recent information (e.g. questionnaire responses) to determine the type and level of access that has occurred on Lynx Lake Road and Butterfly Lake Trail.

Information suggests ATV’s and highway vehicles have been used on Lynx Lake Road and Butterfly Lake Trail for decades, including being used prior to the legislative designation of NLSRA. The 1972 Dock Inventory states that dock one on Butterfly Lake is “...on a northern peninsula which is on an ATV trail extending from the Lynx Lk. Road.” An August 4th, 1973 letter from Robert L. Hartig, attorney for Mr. Max B. Pierce, to then commissioner Charles Herbert indicates that many of the trails in NLSRA were being used for access to private property, including the trail from Lynx Lake to Butterfly Lake, as early as 1961. On August 30, 1973, DPOR authorized Mr. Pierce to use an “All Terrain Vehicle” on the trail between Lynx Lake and Butterfly Lake to access his private property. The 1983 Plan acknowledges the use of the road by landowners at the time of the legislative designation of NLSRA. More recently, respondents to the 2010 questionnaire indicated that they have used ATV’s and highway vehicles, among other types of access methods, for access to private properties in the area of Butterfly and Delyndia lakes for decades.

DPOR has conducted research to determine the legal access identified for inholders¹² and property owners beyond NLSRA in subdivisions on Butterfly and Delyndia lakes. Further research of existing Borough plans¹³ was conducted to determine where access to lands outside NLSRA was planned. Access to private lands outside of the legal boundary of NLSRA was the focus of this research.

When a subdivision is platted through local authorities the access to that subdivision must be identified. Many of the plats for subdivisions on Butterfly and Delyndia lakes indicate that access to these subdivisions was to be by fly-in access (only), although access could also be provided to existing and future subdivisions via roads developed to the south of borough land when road access becomes available. Neither the plat notes nor the platting board actions

¹² Inholders for the purposes of this document are defined as those people that own properties that are entirely or mostly within the legal boundary of NLSRA.

¹³ Borough plans reviewed included Matanuska-Susitna Borough Comprehensive Development Plan, Big Lake Community Council Comprehensive Plan Update, Mat-Su Borough Long-range Transportation Plan, Official Streets and Highways Plan, and Willow Comprehensive Plan; Public Review Draft.

indicate that access was to be provided via an overland route through NLSRA or that platted roads within subdivisions needed to connect to the roads and trails existing in NLSRA. Based on a review of borough platting records and plan documents it is apparent that access to these subdivisions was never intended to be provided through NLSRA.¹⁴

Existing Borough plans similarly do not indicate planned access routes traversing through the NLSRA. Rather, the Borough's *Official Streets and Highways Plan* indicates that access to lands south and west of NLSRA would occur via a "Major Arterial" route that is generally west of NLSRA. The *Official Streets and Highways Plan* does not indicate any existing or new access routes to lands west or south of NLSRA that would be in addition to this major arterial.

Resolution of the primary issue – summer access on Lynx Lake Road and Butterfly Lake Trail – requires DPOR to also address the issues of boat moorage and property storage. Currently, private property owners within and beyond the NLSRA boundary that access their property via Lynx Lake Road and Butterfly Lake Trail moor boats on state waters adjacent to state uplands and store personal property on state uplands to facilitate access to their private land. Any provisions to increase, decrease, or maintain private property access will necessitate changes in management recommendations that address boat moorage and property storage. These issues are addressed separately below.

Moorage of Boats Adjacent to State Uplands

An estimated 60 boats are moored long-term on state waters adjacent to state upland at three different locations: the east shore of Lynx Lake, northeast shore of Butterfly Lake, and the western shore of Red Shirt Lake. See Figure 1 on page 20 for a depiction of this site. Management alternatives provided below will focus on the moorage sites on Lynx and Butterfly Lake (Insets 1 and 3). Boats moored at these sites are used to facilitate access to private property and may be left unattended for extended periods while the owners are away from their property. The types of boats used for access include aluminum and fiberglass boats, barges, and canoes. These boats are used to transport people, supplies, and materials across the water body to private land. Of the boats moored long-term, it is the barges moored at Butterfly Lake that drew the most attention in the initial public review. During the early planning process people expressed concern about impacts to riparian habitat where ATV's are loaded onto barges and the potential for impacts to surface waters if a barge capsized.

11 AAC 12.220 requires a person wishing to leave a vehicle (boat) or camping equipment in an undeveloped area more than 72 hours to make advance arrangements with a state park officer. 11 AAC 18.010 requires a person to get a permit prior to placing personal property (including a boat) within a state park. Mooring a boat long term adjacent to private uplands is not addressed in NLSRA specific regulations. 11 AAC 12.335 – the regulation that address anchoring and mooring - only addresses moorage of a boat on salt water. Recent reviews of the moorage sites on Lynx and Butterfly lakes revealed several boats grounded on the bed of the lake with their gas cans floating and tethered to the motor by a gas line. Others are moored to the shore and not

¹⁴ Borough platting documents reviewed included various plats, staff reviews and recommendations, reports, and meeting minutes.

grounded out, but still have their fuel tanks within the hull of the boat or on the platform of the barge.

Of the boats that are moored long term, only 12 barges are authorized to be moored on state waters adjacent to state uplands at the shoreline of Butterfly Lake. No other boats have been authorized for long term moorage adjacent to state uplands to date. This is a potentially significant issue because this long-term use of state waters has been expanding modestly under the current policy, but has the potential to expand very significantly as private and Borough lands in the area of Butterfly and Delyndia lakes are developed.

Personal Property Storage

Personal property storage by private property owners occurs at three locations within NLSRA – the eastern shore of Lynx Lake, the northeast shore of Butterfly Lake, and the western shore of Red Shirt Lake. Management alternatives presented below will focus on the moorage and storage sites on Lynx and Butterfly lakes. See Figure 1 on page 20 for a depiction of these storage areas. While exact dates are not known, storage of boats and some types of personal property have occurred for some time, and this type of use may in fact pre-date the creation of NLSRA. The 1983 Plan did *not* address storage of boats and other personal property or determine the compatibility of this use. Boats and other personal property are being stored on state owned uplands in apparent violation of 11 AAC 12.220 and 11 AAC 18.010. The former requires advance arrangement be made with a state park officer if camping equipment or a vehicle is left in an undeveloped area for more than 72 hours and the latter requires a person to get a permit prior to placing personal property in a state park (“state park” includes a state recreation area). DPOR is aware that moorage and storage has occurred for some time and that the number of boats and other property being stored has increased over time.

Recent site reviews conducted at the storage sites revealed that other personal property including fuel, batteries, electric trolling motors, personal floatation devices, and storage boxes were being stored in addition to boats. Some of these items appeared to be used regularly, while others appeared to have been there for some time and may indeed be trash or abandoned property. Of primary concern to DPOR is the storage of fuel at these sites. Some fuel is being stored in boats, both in water and out, and in plastic containers that are easily punctured. If these containers are punctured or are compromised through other means, they could release fuel directly to the lake or the riparian habitat.

Summary of Facts and Proposed Management Recommendations

Based on this information, DPOR does not have a responsibility to provide motorized access to the private land contiguous with or adjacent to, but outside of, NLSRA. Even though DPOR did not have to allow access by private property owners on Lynx Lake Road and Butterfly Lake Trail the agency has had a management recommendation in place since 1983 to authorize that use. The existing policy did not specifically address the type of access nor did it identify which property owners should be granted access or how many properties could be accessed by these routes.

Access is currently provided to 31 private property owners on Lynx, Skeetna, Butterfly, and Delyndia lakes via Lynx Lake Road and Butterfly Lake Trail. There are approximately 133 permits with keys issued to these property owners in the area of Butterfly and Skeetna lakes that allow access through the Lynx Lake Road gate. Storage of personal property used to access to private lands occurs at two locations on state uplands within this area of NLSRA. Moorage of boats on state waters occurs adjacent to those storage areas. If all Borough and private lands in this area were developed as private parcels there could be a few hundred to a few thousand additional private properties. This could result in hundreds or thousands of property owners seeking access through NLSRA in addition to a corresponding increase in boat moorage and property storage on state land and water.

The Lynx Lake Road and Butterfly Lake Trail existed in some form prior to the designation of NLSRA by the Legislature. Various access methods, including motorized access during the summer time, have occurred on these routes for decades. Based on information provided by property owners, motorized access has occurred prior to designation by the Legislature and has continued, both permitted and un-permitted, since legislative designation at some level. A management recommendation to authorize access for private property owners and to restrict [motorized] access by the recreating public was included in the 1983 Plan. Even though the routes existed and motorized use was occurring, access to private subdivisions on Butterfly and Delyndia Lakes was never intended to be provided through NLSRA. It was intended to be fly-in access with the potential to connect to roads if and when they were developed. Based on a review of platting decision documents and Borough plans, roaded access was not intended to be provided through NLSRA.

Four alternative management recommendations that address summer access on these routes are being considered at this time. These alternatives can be viewed and compared in the tabular format found in *Table 1- Lynx Lake Road Butterfly Lake Trail, Summer Access Alternatives* or in graphic depictions of the alternatives in Figures 1-5 provided in Document 4.

The alternatives offer a range of management options but it is not a comprehensive or exhaustive range of all possible alternatives. Potential impacts resulting from the alternatives are summarized so you can understand what impacts are likely to result and how those impacts vary among the alternatives. The primary differences between the alternatives are the level of development proposed for Lynx Lake Road and Butterfly Lake Trail and the amount of private property access facilitated. As more private access is facilitated there is a corresponding increase in the amount of state land and water impacted. There were two guiding principles that were followed when agency staff developed these alternatives. The first of these was to bring parity to public and private access methods. The second was to provide the minimal recreational facility developments necessary to facilitate recreation and access.

Current Conditions (Document 4 pgs. 1&2 or Figure 1 pg. 3)

Current management of access on Lynx Lake Road and Butterfly Lake Trail are provided. You can use this as a baseline to evaluate how proposed recommendations will change from current management.

Alternative 1 (Document 4 pgs. 1&2 or Figure 2 pg. 4)

This alternative contemplates managing this area to minimally increase recreational use and access while continuing to provide access to private properties within and beyond the recreation area boundary. Management recommendations within this alternative are:

- Identify parcels “beyond” NLSRA as those parcels that are inholdings or are contiguous with the NLSRA boundary on Skeetna and Butterfly Lake.
- Highway vehicle use will be allowed without authorization by private property owners and the public on Lynx Lake Road to the common boundary with the Anchorage Church of Christ property on Lynx Lake.
- ATV’s would be designated an incompatible use within NLSRA and would not be allowed or authorized on Lynx Lake Road and Butterfly Lake Trail.
- Existing and re-routed portions of the Butterfly Lake Trail would be developed as a class 3 sustainable trail designed for pack and saddle and managed for pack and saddle, bicycles, and hiker pedestrian access.
- Boat moorage and property storage could be authorized at the existing moorage/storage site at Butterfly Lake for all existing and new properties that will be developed on Butterfly and Skeetna lakes (currently 71 inholdings or contiguous parcels).
- Boat moorage and property storage would not be authorized for Lynx lake property owners since the launch is road accessible.
- Develop new parking area east of Lynx Lake. This lot will be capable of accommodating up to 40 vehicles.
- Parking areas and moorage and storage sites could be expanded over time to meet the needs of the recreating public and to facilitate access by property owners.
- Up to three hike-in access campsites could be developed on northern shore of Butterfly Lake.
- Up to two public use cabins could be developed on the northwesterly shore of Butterfly Lake.
- If a future determination finds that the resources of NLSRA are being unduly impacted by these uses, authorizations for storage and moorage may be capped, reduced, or eliminated.

If this alternative was adopted in its entirety, new or enhanced boating, hiking, biking, public use cabin, and camping recreational opportunities would be provided. Access to private properties would be maintained; however, the method of access would change - i.e. access on Butterfly Lake Trail would be restricted to pack and saddle, bicycle, or pedestrian. The number of people seeking authorization for boat moorage and property storage at Butterfly Lake to facilitate access to their private properties could increase substantially above current numbers, but the storage and moorage would only be allowed for property owners on Skeetna and Butterfly lakes. Moorage would occur at two primary sites on Butterfly Lake while the storage would occur at the existing site on the northeast shore of the lake (see Figure 1 pg. 20 of this document for a depiction of moorage and storage areas). Impacts to natural resources adjacent to Lynx Lake Road will be minimized as the road will be maintained by DPOR. The potential exists for hundreds of boats to be moored on the surface of Butterfly Lake and for many boats and other personal property to be stored on the adjacent state uplands. Boat moorage and

property storage would not be allowed or authorized at Lynx Lake since the existing and re-developed launch is road accessible.

Alternative 2 (Document 4 pgs. 1&2 or Figure 3 pg. 5)

This alternative contemplates managing this area to provide a moderate increase in recreational use and access while continuing to provide access to private properties within and beyond the recreation area boundary. It would:

- Identify parcels “beyond” NLSRA as those parcels that are inholdings or are contiguous with the NLSRA boundary on Skeetna and Butterfly lakes and all parcels in the vicinity of Delyndia Lake.
- Highway vehicle use by the public and property owners will be allowed without authorization on the Lynx Lake Road to the common boundary with the Anchorage Church of Christ property on Lynx Lake.
- ATV’s would be designated as an incompatible use within NLSRA *except* use of these vehicles would be allowed without authorization on existing and re-routed portions of the Butterfly Lake Trail.
- Existing and re-routed portions of the Butterfly Lake Trail would be developed as a class 4 sustainable trail designed for ATV’s and managed for ATV’s, pack and saddle, bicycles, and hiker pedestrian access.
- Boat moorage and property storage could be authorized at the existing moorage/storage site at Butterfly Lake for all existing and new properties that will be developed on Butterfly and Skeetna lakes and all parcels in the vicinity of Delyndia Lake (currently 118 parcels).
- Boat moorage and property storage would not be authorized for Lynx lake property owners since the launch is road accessible.
- Develop new parking area east of Lynx Lake. This lot will be capable of accommodating up to 70 vehicles.
- Parking areas and moorage and storage sites could be expanded over time to meet the needs of the recreating public and to facilitate access by property owners.
- Up to three hike-in access campsites could be developed on northern shore of Butterfly Lake.
- Up to two public use cabins could be developed on the northwesterly shore of Butterfly Lake.
- If a future determination finds that the resources of NLSRA are being unduly impacted by these uses, authorizations for storage and moorage may be capped, reduced, or eliminated.

If this alternative was adopted in its entirety, new or enhanced boating, hiking, biking, camping, public use cabin, and ATV recreational opportunities would be provided. Access to private properties would be maintained and levels of this type of use could increase substantially over time. The number of people seeking authorization for boat moorage and property storage at Butterfly Lake to facilitate access to their private properties could increase substantially above current numbers. Storage and moorage would be limited to property owners on Skeetna and Butterfly lakes and all private parcels in the vicinity of Delyndia Lake. Moorage would occur at two primary sites on Butterfly Lake while the storage would occur at the existing site on the

northeast shore of the lake (see Figure 1 pg. 20 of this document for a depiction of moorage and storage areas). Impacts to natural resources adjacent to Lynx Lake Road will be minimized as the road will be maintained by DPOR. The potential exists for hundreds of boats to be moored on the surface of Butterfly Lake and for many boats and other personal property to be stored on the adjacent state uplands. Boat moorage and property storage would not be allowed or authorized at Lynx Lake since the existing and re-developed launch is road accessible.

Alternative 3 (Document 4 pgs. 1&2 or Figure 4 pg. 6)

This alternative is a variant of the second and contemplates managing to provide a moderate increase in recreational use, while greatly enhancing the standard of access to this area of NLSRA. Access to private properties within and beyond the recreation area boundary would be maintained. It would:

- Develop Lynx Lake Road as a 24' wide park standard gravel surface road. The entirety of Lynx Lake Road would be upgraded to this standard (e.g. from intersection of George Parks Highway to Anchorage Church of Christ property on Lynx Lake.
- Identify parcels "beyond" NLSRA as those parcels that are inholdings or are contiguous with the NLSRA boundary on Skeetna and Butterfly lakes and all parcels in the vicinity of Delyndia Lake.
- Highway vehicle use by the public and property owners will be allowed without authorization on the Lynx Lake Road to the common boundary with the Anchorage Church of Christ property on Lynx Lake.
- ATV's would be designated as an incompatible use within NLSRA *except* use of these vehicles would be allowed without authorization on existing and re-routed portions of the Butterfly Lake Trail.
- Existing and re-routed portions of the Butterfly Lake Trail would be developed as a class 4 sustainable trail designed for ATV's and managed for ATV's, pack and saddle, bicycles, and hiker pedestrian access.
- Boat moorage and property storage could be authorized at the existing moorage/storage site at Butterfly Lake for all existing and new properties that will be developed on Butterfly and Skeetna lakes and all parcels in the vicinity of Delyndia Lake (currently 118 parcels).
- Boat moorage and property storage would not be authorized for Lynx lake property owners since the launch is road accessible.
- Develop new parking area east of Lynx Lake. This lot will be capable of accommodating up to 70 vehicles.
- Parking areas and moorage and storage sites could be expanded over time to meet the needs of the recreating public and to facilitate access by property owners.
- Up to three hike-in access campsites could be developed on northern shore of Butterfly Lake.
- Up to two public use cabins could be developed on the northwesterly shore of Butterfly Lake.
- If a future determination finds that the resources of NLSRA are being unduly impacted by these uses, authorizations for storage and moorage may be capped, reduced, or eliminated.

If this alternative was adopted in its entirety, new or enhanced boating, hiking, biking, camping, public use cabin, and ATV recreational opportunities would be provided. Access to private properties would be maintained and levels of this type of use could increase substantially over time. The number of people seeking authorization for boat moorage and property storage at Butterfly Lake to facilitate access to their private properties could increase substantially above current numbers. Storage and moorage would be limited to property owners on Skeetna and Butterfly lakes and all private parcels in the vicinity of Delyndia Lake. Moorage would occur at two primary sites on Butterfly Lake while the storage would occur at the existing site on the northeast shore of the lake (see Figure 1 pg. 20 of this document for a depiction of moorage and storage areas). Impacts to natural resources adjacent to Lynx Lake Road will be minimized as the road will be maintained by DPOR. The potential exists for hundreds of boats to be moored on the surface of Butterfly Lake and for many boats and other personal property to be stored on the adjacent state uplands. Boat moorage and property storage would not be allowed or authorized at Lynx Lake since the existing and re-developed launch is road accessible.

Alternative 4 (Document 4 pgs. 1&2 or Figure 5 pg. 7)

This alternative contemplates managing to provide a moderate increase in recreational use, while greatly expanding access to this area of NLSRA. Access to private properties within and beyond the recreation area boundary would be maintained. It would:

- Develop Lynx Lake Road as a 24' wide park standard gravel surface road. The entirety of Lynx Lake Road would be upgraded to this standard (e.g. from intersection of George Parks Highway to Anchorage Church of Christ property on Lynx Lake.
- Identify parcels "beyond" NLSRA as those parcels that are inholdings or are contiguous with the NLSRA boundary on Skeetna and Butterfly lakes and all parcels in the vicinity of Delyndia Lake and Cow lakes.
- Highway vehicle use by the public and property owners will be allowed without authorization on the Lynx Lake Road to the common boundary with the Anchorage Church of Christ property on Lynx Lake.
- ATV's would be designated as an incompatible use within NLSRA *except* use of these vehicles would be allowed without authorization on existing and re-routed portions of the Butterfly Lake Trail.
- Existing and re-routed portions of the Butterfly Lake Trail would be developed as a class 4 sustainable trail designed for ATV's and managed for ATV's, pack and saddle, bicycles, and hiker pedestrian access.
- Boat moorage and property storage would not be authorized for private property owners on Skeetna and Butterfly lakes since the Butterfly Lake launch is road accessible; however, some level of moorage on state waters adjacent to state uplands on the western shore of Butterfly Lake could be authorized to facilitate access to private properties in the vicinity of Delyndia and Cow lakes. (currently the potential for hundreds to a few thousand more parcels to be developed in the vicinity of Delyndia and Cow lakes)
- Boat moorage and property storage would not be authorized for Lynx Lake property owners since the launch is road accessible.
- Develop new parking area north of Butterfly Lake. This lot will be capable of accommodating up to 70 vehicles.

- Parking areas and moorage and storage sites could be expanded over time to meet the needs of the recreating public and to facilitate access by property owners.
- Up to three hike-in access campsites could be developed on northern shore of Butterfly Lake.
- Up to two public use cabins could be developed on the northwesterly shore of Butterfly Lake.
- If a future determination finds that the resources of NLSRA are being unduly impacted by these uses, authorizations for storage and moorage may be capped, reduced, or eliminated.

If this alternative was adopted in its entirety, new or enhanced boating, hiking, biking, camping, and public use cabin recreational opportunities would be provided. Access to the southern portion of NLSRA would be greatly expanded through improved road access. Access to private properties would be facilitated through long-term parking and enhanced launch opportunities. Some level of moorage adjacent to state uplands on the western shore of Butterfly Lake could be authorized to facilitate access to private properties in the vicinity of Delyndia and Cow lakes. The number of people seeking authorization for boat long-term parking at the Butterfly Lake parking area and mooring a boat on state water could increase significantly in the future. Boat moorage and property storage would not be allowed or authorized at Lynx Lake or at the existing moorage and storage site on the northeast shore of Butterfly Lake since these launch sites are road accessible. Impacts to natural resources adjacent to Lynx Lake Road will be minimized as the road will be maintained by DPOR.

FIGURE 1 – PROPERTY STORAGE AND BOAT MOORAGE SITES

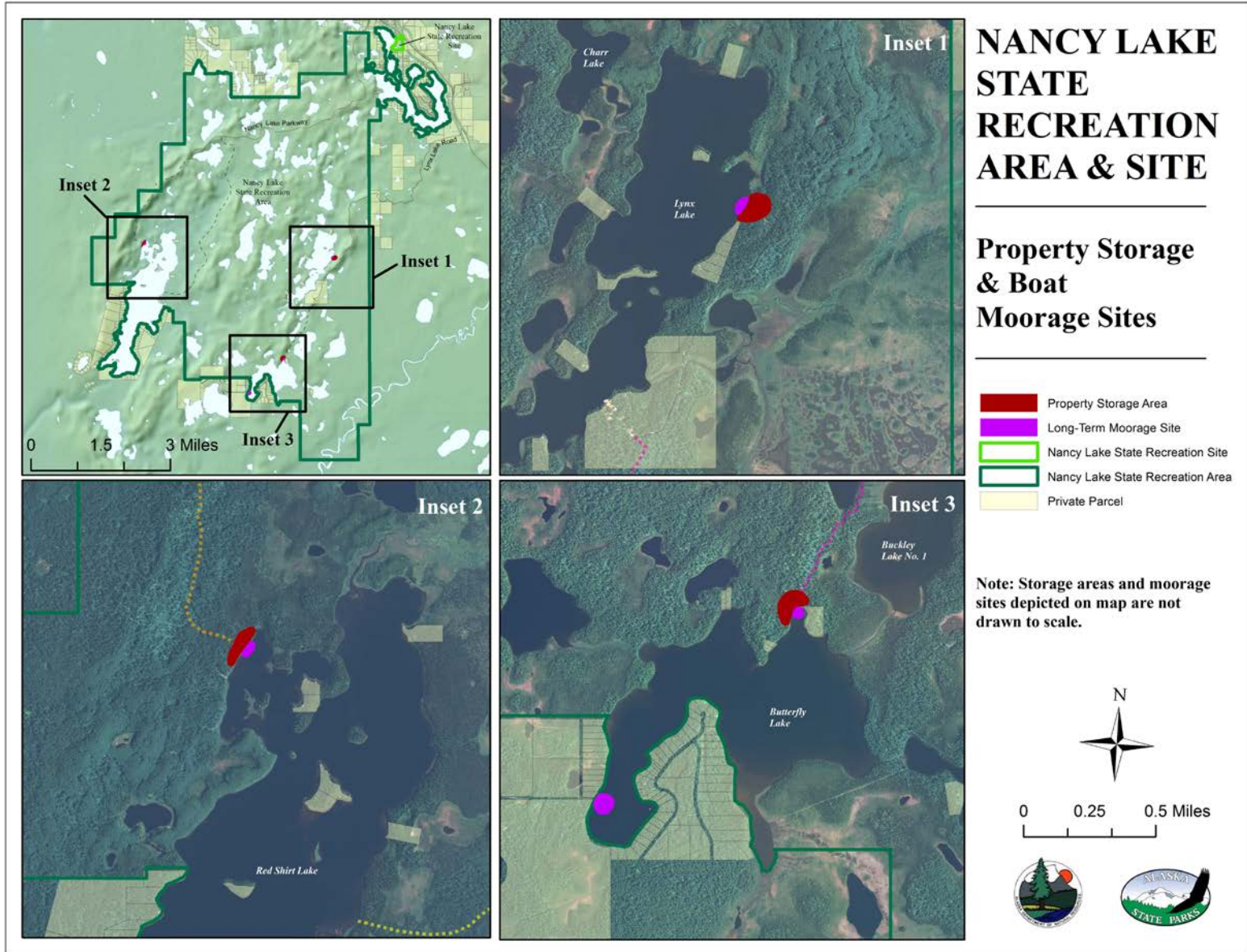


FIGURE 2 - PRIVATE AND BOROUGH LANDS WITHIN 2 MILES OF NLSRA BOUNDARY

