

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

**PRELIMINARY DECISION**  
**Kupreanof Shores Subdivision – ADL 232354**

**Proposed Land Offering in the Kodiak Island Borough**  
*AS 38.05.035 (e), AS 38.05.045*

**RELATED ACTIONS:**  
**Proposed Amendment to the Kodiak Area Plan**  
*AS 38.04.065*

**Proposed Land Classification Order**  
*AS 38.04.065 and AS 38.05.300*

**Proposed Mineral Order (Closing)**  
*AS 38.05.185 and AS 38.05.300*

**PUBLIC COMMENT PERIOD ENDS 5:00PM, THURSDAY, OCTOBER 4, 2018**

**I. Proposed Actions**

*Preliminary Decision: Kupreanof Shores Subdivision – ADL 232354*

*Attachment A: Vicinity Maps*

*Attachment B: Area Data Summary Table*

*Attachment C: Public Notice*

*Public is also invited to comment on the proposed related actions:*

*Draft Amendment to the Kodiak Area Plan SC-04-001A01*

*Draft Mineral Order (Closing) MO(C) 1182*

*Draft Land Classification Order CL SC-04-001A01*

Primary Proposed Action: The primary proposed action of this Preliminary Decision of the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales Section (LSS) is to offer for sale State-owned land within the identified project area. If approved, surveyed parcels will be offered for sale.

Located within DNR's Southcentral Region, approximately 30 air miles west of the City of Kodiak, the project area is on the Kupreanof Peninsula, Kodiak Island within the Kodiak Island Borough. The project area consists of approximately 603 acres with no more than 400 acres along the coastline identified for disposal by this proposed action. See *Attachment A: Vicinity Map* for a depiction of the project area. Note: The project area consists of several non-contiguous sites or project sub-areas identified as Area-1 through Area-7.

In accordance with the governing area plan and for the purpose of providing land for settlement, DNR proposes to sell land within the Kupreanof Shores Subdivision project area. In order to offer these lands for sale, if approved and deemed feasible, DNR may develop a

## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 2 of 21

subdivision of no more than 40 parcels varying in size from approximately 5 acres up to 25 acres.

This proposed project area is located within the Kodiak Island Borough (KIB), and therefore survey, platting, and access to and within the project area will be subject to the relevant subdivision standards and additional KIB public notice. The project area may be subdivided and offered in multiple stages.

After consideration of public comment, the size and boundaries of the project area will be described in a subsequent Final Finding and Decision, if the project proceeds to that step. Additional adjustments may be made prior to survey/subdivision, as described in the applications to the platting authority, as needed to reserve areas for public use, minimize conflicts between uses, or ensure compliance with platting requirements. Although actions under this proposal are limited to the stated maximums, additional offerings in the area may be authorized under future proposals, which could increase the density of privately-owned parcels within or near the project area.

Proposed Related Actions: These related actions will be developed separately; however, public notice is being conducted concurrently.

*Area Plan Amendment:* DNR proposes to amend the Kodiak Area Plan (KAP) adopted December 20, 2004, to change the designation of approximately 75-acres of Management Unit K-05 from General Use to Settlement (Attachment A, Area-3) and to change the designation of approximately 22-acres of Management Unit K-02 from General Use to Settlement (Attachment A, Area-7). The remainder of Unit K-05 and Unit K-02 will continue to be designated General Use. Refer to the Planning and Classification subsection of this document for more information on this proposed related action.

*Land Classification Order:* In relation to the Area Plan Amendment, DNR proposes to reclassify approximately 75 acres within Management Unit K-05 and approximately 22 acres within Management Unit K-02 in a Land Classification Order from Resource Management to Settlement. Refer to the Planning and Classification subsection of this document for more information on this proposed related action.

*Mineral Order (Closing):* DNR proposes a mineral order to close the project area to new mineral entry. There are no known mining claims in the project area. Refer to the Reservation of Mineral Estate subsection of this document for more information on this proposed related action.

These related actions will be developed separately. However; approval of the proposed actions is dependent upon one another in that one action will not proceed without approval of all actions.

Public Notice of Proposal and Related Actions: In accordance with *AS 38.05.945 Notice*, during a period of at least 30 consecutive days, the public will have the opportunity to submit written comment on this proposal and the related actions. Public notice for all actions is being conducted concurrently.

## **Preliminary Decision**

Kupreanof Shores Subdivision – ADL 232354

Page 3 of 21

See **Section VIII. Submittal of Public Comments** at the end of this document and *Attachment C: Public Notice* for details on how to submit a comment for consideration. If, after consideration of timely, written comments, DNR moves forward with the proposal, a Final Finding and Decision will be issued.

## **II. Method of Sale**

DNR proposes to offer for sale land within the project area as described herein, through a future offering under *AS 38.05.045 Generally*.

Parcels offered through this action are offered fee-simple for the surface estate only. For more information about the land sales program, please visit the website at <http://landsales.alaska.gov>.

## **III. Authority**

DNR has the authority under *AS 38.05.045 Generally* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska provides that it is the policy of the State to encourage the settlement of its land. In addition, if it is deemed appropriate, DNR has the authority to develop and offer parcels larger than 5 acres under the allowances listed in *AS 38.04.020 (h) Land Disposal Bank*.

For related actions, *AS 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally* allow for amendments and special exceptions to area plans, land classifications, and mineral orders.

## **IV. Administrative Record**

The project file, Kupreanof Shores Subdivision – ADL 232354, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- *Kodiak Area Plan for State Lands (KAP)*, adopted December 20, 2004, and associated land classification files;
- *Alaska Interagency Wildland Fire Management Plan* (March 2017 Review);
- *Alaska Department of Fish and Game (ADF&G) Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*;
- *USDA, Soil Conservation Service, Exploratory Soil Survey for Alaska dated January 1979*;
- *Kodiak Island Borough Comprehensive Plan Update January 2008*, and
- Other DNR case files, plans, or documents that are mentioned or referenced herein.

## **V. Scope of the Proposal**

The scope of this proposal, under the statutes described in the preceding **Section III. Authority**, is limited and specific to DNR proposal to offer State-owned land within the defined project area for disposal and to conduct the proposed area plan amendment, land classification order, and mineral order as described herein. The scope of this proposal does not include the control of post-patent use and DNR DMLW does not intend to impose deed restrictions for this purpose. The subdivision may be conducted in multiple stages.

## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 4 of 21

## VI. Description

Location: within DNR's Southcentral Region, approximately 30 air miles northwest of the City of Kodiak. See *Attachment B: Area Data Summary Table* for additional information.

*Platting Authority:*

The project area is within the Kodiak Island Borough and subject to the borough's platting authority.

*Native Regional and Village Corporations:* The project area is within the boundaries of the Koniag Regional Corporation. The villages of Afognak, Anton Larsen Bay, Bell Flats, Litnik, Ouzinkie, Port Lions, Kodiak, Uganik, and Woody Island are within approximately 25-30 miles of this proposed action and notice will be sent to them. The Traditional Tribal Councils of Afognak, Ouzinkie, Port Lions, Sun'aq of Kodiak, Uganik, and Woody Island will also be sent notice.

Legal Description: All land located within the Kodiak Recording District, Third Judicial District, Alaska. See Attachment A: Vicinity Map.

Township 25 South, Range 24 West, Seward Meridian

- Uplands of the W1/2W1/2SW1/4 of Section 29 (Area-7);
- Uplands of the W1/2W1/2NE1/4 of Section 32 (Area-6);
- Uplands of the NW1/4SE1/4 of Section 33 (Area-5);
- Uplands of the W1/2SE1/4 of Section 34 (Area-4);

Township 25 South, Range 25 West, Seward Meridian

- Uplands of the NW1/4NW1/4, S1/2NW1/4, and the SW1/4 of Section 26 (Area-1);
- Uplands of the E1/2NE1/4 of Section 27 (Area-1);
- Excluding ASLS 75-98, uplands of the NW1/4, NW1/4NE1/4, W1/2NE1/4NE1/4, N1/2N1/2SW1/4NE1/4, and the N1/2NW1/4SE1/4NE1/4 of Section 35; (Area 1)
- Uplands of the S1/2S1/2NE1/4 and the SE1/4 of Section 35; (Area 2)
- Uplands of the W1/2SW1/4 of Section 36 (Area-2); and

Township 26 South, Range 24 West, Seward Meridian

- Uplands of the N1/2 of Section 7(Area-3).

Title: Information from Title Reports No. 8329, 8330, 9473, and 9477 current as of 12/17/2016, 12/18/2016, 1/17/2017 and 1/18/2017 respectively indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Patent 50-85-0432 dated 6/14/1985, Patent 50-85-0371 dated 5/29/1985, and Patent 50-84-0206, dated 2/14/1984, respectively. The applicable State case files are GS 1000, GS 999, and GS 977 respectively. The parcels are subject to the reservations, easements and exceptions contained in the federal patents.

*State Reservations of Title:*

*Retention of and Access to Mineral Estate:* In accordance with Section 6 (i) of the Alaska Statehood Act and AS 38.05.125 Reservation [of Rights to Alaska], the State retains ownership of the mineral estate that may be in or upon the land that it sells. This retention is for all minerals, including both locatable minerals (such as gold, copper and silver, etc.), and leasable minerals (such as oil, gas, coal, etc.).

## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 5 of 21

The State and its successors reserve the right to enter onto the land for the purposes of exploring for, developing, and producing these reserved mineral resources. Access reserved to these retained interests is superior to any and all surface uses. The State may also lease these retained interests to mineral developers or allow mining locations to be staked. However, *AS 38.05.130 Damages and Posting of Bond* also provides that the land estate owner will be compensated for damages resulting from mineral exploration and development.

*Navigable Waters: Per AS 38.05.126 (b) Navigable and Public Waters*, "...the State has full power and control of all of the navigable or public water of the state, both meandered and unmeandered, and the State holds and controls all navigable or public water in trust for the use of the people of the state." This trust is in accordance with the principles of the Public Trust Doctrine, which are included in Article VIII, Section 14 of the Constitution of the State of Alaska and protected in the United States Constitution. It is vested in the title to this land, is not transferable, and the State's title to submerged lands under navigable waters cannot be relinquished by a transfer of the property. In holding with this concept, navigability determinations are made and access will be reserved per *AS 38.05.127 Access To and Along Public and Navigable Water*. For more information, see Access To, Within, and Beyond Project Area subsection of this document.

The Bureau of Land Management has administratively determined that all fresh water bodies within the townships are non-navigable. All tidal waters are considered navigable under the Submerged Land Act (67 Stat. 29, P.L. 31, May 22, 1953).

Where they exist within the project area, State third-party interests will be described in land sales brochures.

Physical Characteristics and Hazards: Attachment B: Area Data Summary Table describes the project area's physical characteristics. Information about the project area is based on internal research, information received during agency review, and field inspections conducted by air on June 2, 2015 and September 12, 2016. This is by no means a complete description of the project area, and if this proposal is approved and the area offered for sale it will be the responsibility of interested parties to inspect individual parcels prior to purchase to familiarize themselves with the physical characteristics of the land.

*Soils*: US Department of Agriculture (USDA), Natural Resources Conservation Service, web Soil Survey currently had no data available for the project area. The USDA Exploratory Soil Survey of Alaska, issued February 1979, provided the following. The project area generally consists of loamy soils on hilly to steep terrain. From sea level to nearby sloping mountain bases, all areas exhibit features typical of glaciated landscapes. The geology is characterized by irregular coast line with uplands consisting of gentle to steep sloping valleys filled with gravelly outwash deposits, glacial moraine deposits, all covered with varying layer(s) of volcanic ash up to over 3 feet in depth. Loamy soils predominate the areas of interest and are well drained and formed in volcanic ash over bedrock and support a significant vegetative system as described. KAP (p. 3-15) states that no permafrost exists on Kodiak.

## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 6 of 21

*Wetlands:* US Fish and Wildlife Service, National Wetlands Inventory map indicates minimal or no wetlands exist within or abutting the project area.

*Geologic Hazards:* According to information provided by DNR, Division of Geological and Geophysical Surveys (DGGS), and data in the *Kodiak Island Borough Comprehensive Plan* (KIBCP), updated January 2008, Kodiak Island is subject to very high amounts of geologic activity. These risks include earthquake potential; tsunamis; volcanic hazards including air fall ash from eruptions of 19 active or potentially active volcanoes along the western shores of Shelikof Strait; slope failures and snow avalanches in mountainous areas; coastal and river flooding and erosion; and contamination of shallow perched groundwater in the surface soil aquifers. The Kodiak region is one of the most seismically active regions of Alaska. The island lies directly above the eastern Aleutian subduction zone and the eastern Aleutian megathrust fault, the largest active fault in North America. Steep slopes common to the glaciated landscape of the region have significant slope failure particularly where they are underlain by highly fractured rock or mantled by unconsolidated glacial sediments of soils. Such conditions can result in debris and mud flows, slumps, and landslides. Bedrock hazards include rock falls, rock slides, and debris slides. Snow avalanches are common at higher elevations and can reach to the sea in local areas. Should other geologic hazards be discovered in the development of this proposal, information will be included in offering materials. All participants are encouraged to visit the sites in which they are interested and familiarize themselves with the local conditions and possible risks prior to purchase.

*Fire Information:* Pursuant to observations from the June 2015 and September 2016 field inspections and information from the Division of Forestry (DOF), fire risk in the area is likely very low. DOF fire history for the general area showed a single grass fire, less than ½ acre in size, outside of the project area on the west side of Viekoda Bay in 2014. Potential for wild land fire is generally low in the Alaska gulf maritime climate zone. Nonetheless, landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. Offering materials include information regarding wild land fire prevention.

Fire management options and policies for the area are identified in the Alaska Interagency Wildfire Management Plan available from DNR Division of Forestry. The current fire management option for the project area is “Full.” The policy on areas with this option reads, “Wildfires occurring in the Full Management Option are assigned a high priority for suppression actions and assignment of available firefighting resources, but are below wildfires within or threatening a Critical management option area or site.” It also states that the designation of a fire management option does not ensure protection from wildfire, and that a protection response will be based on various factors. The proposed project location is well beyond any road system or realistic likelihood of borough or even neighborly assistance. “Ultimately it is the personal responsibility of the [landowner] to mitigate and minimize risk to their property and structures and to be ‘Firewise.’”

*Flood Hazard:* There is no Flood Insurance Rate Map available for the project area. According to FEMA Flood Map Service, the entire KIB is designated Unmapped Area. There is potential for seasonal flooding and erosion of parcels adjacent to water bodies,

## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 7 of 21

especially in low-lying areas. Coastal shorelines are subject to the impact of marine weather forces.

*Water Resources:* All surface and subsurface waters on all lands in Alaska are a public resource, subject to appropriation in accordance with the Alaska Water Use Act (AS 46.15). No water rights have been identified within the vicinity of the project area. There is no well or water quality information within the area. KAP states (p. 3-15) availability of water for settlement varies considerably depending on location. Surface water is the prominent source of water on Kodiak Island. The KIBPC stated in Chapter 10, page 20 that, “The shallow perched aquifers locally represent a significant potential for shallow ground water contamination, especially where septic systems introduce sewage into thin poorly drained soils situated on impermeable till or rock.” Ground water quality at the proposed sites is unknown.

Background: The project was identified based on a review of settlement lands in the area. The last new state offering of land on the peninsula included approximately 3-4 dozen parcels, approximately 15-20 acres in size and was offered under the old residential homestead program, circa 1990. The presence of existing private parcels near or within the KAP management units designated settlement suggested that parts of the Kupreanof Peninsula could be utilized in the state’s current land sale program.

There is a two-acre cabin/land use permit (ADL 231815) within Area-1 in support of a commercial set net fishing site (ADL 221645). LSS agrees with SCRO’s February 16, 2016 recommendation that the land under ADL 231815 permit should be retained in state ownership while the permit exists. LSS will have the area under permit surveyed as part of this project, creating a good legal description for the permit. The lot surveyed for the permit will encompass all improvements and include waterfront. The associated 2-part set net fishing site is approximately 2½ miles southeast and is outside the project area.

In the event the permit expires and is not reissued, is relinquished, or terminated, LSS reserves the right to sell this surveyed parcel with concurrence from SCRO.

There are other shore fishery leases and associated activity found at several sites around the peninsula located outside the project area: five along Kupreanof Strait and four along Viekoda Bay. Only two of these nine shore fishery lease sites are in the vicinity of the project area; one is in proximity to the proposed offering near Area-5 and one near Area-6. See Attachment A.

The uplands provide high density winter range for deer and are known bear and black-tailed deer hunting areas. Because the proposed project consists of only waterfront parcels, LSS has not identified any conflicts with current uses of the lands that would prevent implementing this proposed offering.

The proposed areas of offering are surrounded by state-owned lands and a few private or municipal parcels. Most of the private land is well interior or along the northeastern coast; a few small parcels are located on the western coast of the peninsula. Municipal lands abut Area-3 to the east and south and extend from coast to coast across the peninsula. The remoteness, large open grassy areas with small clustered tree stands along the shoreline, and the evidence of shallow soil coverage over bedrock all support a development of

## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 8 of 21

approximately 5-acre or larger parcel sizes. Due to terrain, access, and comparable surrounding private land, a small number of parcels along the peninsula's eastern shores on Kupreanof Strait will be larger than most of those proposed to be offered on the Viekoda Bay side of the peninsula. In all locations, private parcels adjacent to or within the involved management units appear to be of similar size as the parcels being considered for design and offering under this proposal. Parcels being considered for design and offering under this proposal generally will be in a size range comparable to private parcels adjacent to or within the involved management units.

On June 2, 2015 DRN staff met with the Kodiak Soil & Water Conservation board the potential for grazing in association with the proposed land disposal. No grazing permits have been requested for the remote area. After considering board input and KIB tax appraisals of existing parcels along the southwest shoreline, the LSS believed the value of the area for private ownership far exceeds any immediate or long-term value of state grazing leases.

Access to parcels will be directly from Kupreanof Straight of Viekoda Bay, via float plane or watercraft, directly to parcels or via public accessible lands and easements. DMLW does not believe it is feasible or practical to construct upland routes at this time. Based on aerial imagery, and June 2015 and September 2016 aerial field inspection of the proposed sites, DMLW believes there are adequate mooring sites to accommodate the number of parcels proposed. Some parcels may have access directly from the water and other parcels may be located where waterfrontage may be too steep for practical direct access. All lots not accessed directly from the shore may be accessed by easements to be created through the platting process or by overland travel on state lands as a generally allowed use provided in *11 AAC 96.020, Generally Allowed Uses*. DMLW may reserve public access locations or staging sites. Pursuant to KAP, p. 3-53, the project design will allow for public access to interior state lands and open space for wildlife travel corridors.

During a public scoping meeting on September 12, 2016 at the Kodiak Public Library, the public offered comments unanimously in favor of the proposed state land sales projects presented including Kupreanof Shores. Also, KIB contacts expressed favorable interest in this land sale project. The proposed project area appears to be viable for a state subdivision project. Such an offering would be compatible with the existing private parcels in the general vicinities. The locations will likely attract participants who wish to obtain a relatively remote parcel that has already been surveyed. Based on preliminary market evaluation, DMLW believes that this project should provide a good return on the State's investment.

Planning and Classification: The general management intents of the area plan and management units were reviewed for consistency with the proposed offering. The project area is within Kodiak Area Plan (KAP, adopted December 2004), Kodiak Region, Management Units K-01, K-02, K-03, K-04, and K-05. The project area consists of only small portions of these five management units. Lands within these units are currently designated Settlement, and classified Settlement under Land Classification Order No. SC-04-001 except for units K-02 and K-05 which are currently designated General Use and classified Resource Management. Communication with DMLW Resource Assessment and Development Section (RADS) in February 2016 and again in May 2018 confirmed that office would have no objection to a designation/classification change involving approximately 22



## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 9 of 21

acres of the 1,737-acre Unit K-02 and approximately 75 acres of the 2,745-acre Unit K-05, leaving 98% of those units unchanged.

*Unit/Region Considerations:* Land management policies for each area plan region and management unit are found in KAP Chapter 3. This chapter, including resource allocation tables for units K-01, K-02, K-03, K-04, and K-05, was reviewed, and the policies were given consideration in the concept development of the proposed project. Reference to prior existing private parcels, wildlife habitat and hunting harvest, access, and physical characteristics of the land has been made throughout this decision document. Management Intent for Management Units K-01, K-03, and K-04 is clear that sale/disposal of lands is appropriate. An area plan amendment and related land classification order change are proposed for small portions of Units K-02 and K-05 to allow for settlement use. A summary of Management Intent and Resource Information in the Resource Allocation Table for management units follows.

Units K-01 and K-03: The northwestern coast of the peninsula is exposed to westerly seas making suitable anchorage a challenge. The PDT has considered this important factor and, based on field observation, aerial photos, and topographic map study, believes adequate access from the ocean is possible. There are no recognized anadromous streams in the project area. Part of Area-2 in K-03 is near an anadromous stream, and DNR will retain a 100-foot buffer from ordinary high water on both sides of the stream. These units include high density winter range for and harvest of black-tailed deer. Wildlife movement corridors are to be maintained from upland areas to beach fringe and access to areas of outdoor recreation activities should be retained. Project design will provide retained open spaces to allow for these purposes. Wetlands occur throughout flatter portions of interior uplands of these units. This project proposes to offer only parcels along the coast and will not include any significant wetland areas. Should small portions of wetlands be involved in parcels sold, all owners must protect them by complying with Army Corps of Engineers requirements regarding use or impact of wetlands.

Unit K-02: This unit, designated General Use, consisting of mostly steep terrain, will require a plan amendment to convert approximately 22 acres (Area-7) to the settlement use designation by moving these acres into K-04. The management intent from K-04 will apply. LSS intends to offer this land as a single parcel (Area-7) which is located on the far eastern end of the K-02, adjacent to K-04 settlement lands. There are no known anadromous streams at this location. Wildlife movement corridor and public access to upland areas of recreation will be part of the design consideration.

Unit K-04: This unit's management intent and resource information are like that of Units K-01 and K-03, and the same LSS comments apply. In addition, better areas of Unit K-04 have already been developed. Although further disposals are considered appropriate, consideration must be given for buffering between the new (Area-4, Area-5, Area-6) and existing disposals. Project design will consider for these factors.

Unit K-05: This unit, designated General Use, consists of steep terrain near the coasts with moderately sloping parts in the central portion. It includes high density winter range for, and is a harvest area of, black-tailed deer. There are a few scattered wetlands

## **Preliminary Decision**

Kupreanof Shores Subdivision – ADL 232354

Page 10 of 21

occurring mostly within the flatter central areas of the unit. Unit K-05 will require a plan amendment to convert approximately 75 acres (Area-3) to settlement use designation by moving these acres into K-03. The management intent from K-03 will apply. Relatively steep topography and absence of an ideal anchorage present access challenges. Any development authorizations should ensure the maintenance of wildlife corridors from upland areas to beach fringe as well as public access to the coast and to areas of outdoor recreation activities. LSS believes that all these considerations can be met with project design and by allowing for anchorage and access from nearby retained state lands outside the project boundary.

*Area-wide Considerations:* LSS reviewed the area plan's guidelines in Chapter 2 Areawide Land Management Policies especially regarding Cultural Resources, Fish and Wildlife Habitat and Harvest Areas, Forestry, Grazing, Recreation, Tourism, and Scenic Resources, Settlement, Shorelines, Stream Corridors and Coastal Areas, and Public Access and Trails. These considerations will be incorporated into the design and development of the project. Lands to be retained in public ownership, conditions, and reservations will be included on the plat and in offering materials as appropriate. Specific area-wide management intent and management guidelines affecting this proposal are discussed below.

**Cultural Resources:** Management guidelines require that "if determined by OHA during an agency review of a proposed land disposal that a cultural survey may be required, further coordination between OHA and DMLW prior to the land disposal is warranted; and that cultural surveys should be considered where OHA reported sites exist or where there is a high potential for such sites to exist." The Office of History and Archeology (OHA) was consulted early in the evaluation of this project. Based on their record review and recommendations, the current proposal represents a reduction of the originally proposed project area; LSS removed the portion of the originally proposed project area with a high potential for cultural sites. Should any cultural resources be discovered during the development of this project with its adjusted boundaries, OHA will be notified. Offering materials will also include information about requirements to report the discovery of any historic, prehistoric, or archaeological resources. LSS and OHA will continue to work together as this project moves forward.

**Fish and Wildlife Habitat and Harvest Areas:** No specific management intent for fish and wildlife habitat and harvest regarding settlement is stated in this section. However, interior uplands throughout much of the proposed project area management units are host to wildlife habitat and harvest activities. LSS is aware of the importance of the project area as a portion of high density winter range and harvest area for black-tailed deer. LSS has considered factors presented in this section during development of the project area. LSS believes potential concerns are mitigated through the subdivision design to avoid sensitive habitat areas.

The following conditions also minimize the impact on fish and game and their habitat. No more than 400 acres, spread over several different locations around the peninsula, will constitute parcels proposed to be offered by this project. Less than 6% of the area of the 5 combined management units will be considered for development in this offering; the remaining 94% will be retained in state ownership

## **Preliminary Decision**

Kupreanof Shores Subdivision – ADL 232354

Page 11 of 21

without changing management intent. DNR DMLW consulted the ADF&G regarding the sales proposal and will continue to work with them as needed. Public access easements and wildlife movement corridors will be provided to foster the continued functioning of these resources. Offering materials will note advice to also comply with eagle nesting site and migratory bird regulations that may apply to locations within or near the proposed state land sale project. All landowners are subject to Department of Environmental Conservation (DEC) requirements for waste disposal. Local platting authority permits must be obtained prior to construction of improvements.

**Forestry:** Management Guidelines state that subdivision disposals shall preclude the sale of merchantable timber but will not preclude cutting trees for site development. Most of the guidelines are focused toward the few commercial locations in the area plan where the Forest Practices Act is applicable. Scattered patches of timber on uplands proposed for offering are not sufficient to support a timber harvest industry. Offering materials will provide appropriate information on the sale and use of timber.

**Grazing:** Some lands on Kodiak have potential for grazing use, but without that classification, no grazing activity is anticipated in the project area. DMLW has discussed the topic with Kodiak Soil and Water Conservation Board. There was no objection to the area plan guideline which states “to minimize conflicts between grazing and settlement, grazing leases will not be authorized on state lands that are designated Settlement (Se) or Settlement-Commercial (Sc)”.

**Recreation, Tourism, and Scenic Resources:** This section does not have any management intent specific to settlement. LSS anticipates that due to the remoteness and low density of the proposed project, there should be minimal, if any, conflicts regarding the parameters covered by this section.

**Settlement:** Management Guidelines include planning and coordination with consideration for private sector and local government competition and plans; coordination of development with local government; pacing of offerings; and potential settlement use of designated General Use lands that adjoin settlement units. Types of settlement land and land offerings included guidelines on remote settlement areas that pertained to management units of this project. Protection, Management, and Enhancement of Other Resources section offered guidelines regarding protection of life and property and of valuable environmental areas; priority of public use in stream corridors; protect and enhance scenic features; mineral closing orders; timber harvest; and protect and enhance recreational, educational, and cultural opportunities. Design portion gave guidelines on important environmental and resource development; cost of public services; access; subdivision design; and easements. DNR DMLW is familiar with and supports the concepts of state land sales outlined in this entire section. This proposal has considered these guidelines as addressed throughout this document. The subdivision design will consider site limitations such as slope, drainage, soils and buffers and will provide for access, wildlife corridors, and other factors pertaining to remote subdivision development. The proposed project will not interfere with any critical recreation or environmental resources and will be done in coordination with KIB plans. DMLW will solicit input

## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 12 of 21

from local landowners through the public notice and public comment process. See the Public Notice subsection for more information.

Shorelines, Stream Corridors and Coastal Areas: Within stream corridors, DNR will set a higher priority on protecting public use values than on providing opportunities for private ownership of land. State subdivision projects are designed with terrain, soils, wildlife, and other environmental factors in mind. The objective is to take advantage of and blend in with the natural features as much as practically possible. All applicable area plan management policies will be heeded. There is only one ADF&G recorded anadromous stream near this proposed project area, the mouth of which is located on the western shoreline of the peninsula north of Area-2. Pursuant to KAP, p. 2-49 through 2-54, DMLW will retain a 100-foot buffer from ordinary high water on both sides of this stream for a total of 200 feet. There have been no other streams identified within the project area

Management guidelines require building setbacks; see *Easements, Setbacks, and Retained Lands* subsection below for more information. *AS 38.05.127 Access To Navigable or Public Water* ensures access to public and navigable waters. Such an easement will be placed along the shoreline and on any waters determined public or navigable by size or *AS 38.05.965 (21)*. Management guidelines also prohibit filling of state tidelands for residential uses or structures.

The conservation zoning district of the KIB has specific setback requirements from marine waters and anadromous waterbodies that apply to most of the state settlement land on Kodiak Island. KIB Ordinance **17.50.080 Setbacks from property lines. B Setbacks from Anadromous Fish Water Bodies.** states,

1. There is a required setback (preventing clearing, filling, excavation, or structural development) of 50 feet from the bank vegetation of anadromous fish water bodies... This provision shall not prevent removal in the setback area associated with a habitable residential or recreational structure of:
  - a. Up to 50 percent of the trees; and
  - b. Other vegetation if a suitable ground cover (such as grass) is planted.
2. Water-dependent facilities, in stream development activities, and fording may be located closer than 50 feet, and in the water when permitted by the Alaska Department of Fish and Game under AS 16.05.870(b) and (d) and 5 AAC 95.700.

These conditions are met by the 100-foot KAP buffer described above.

Pursuant to pages 2-48 & 51 of the KAP, a 500-foot coastal use and maintenance area will be provided on applicable lands to be retained by the state. In those instances when a state land disposal occurs within an area affected by this district, the effect of this action is to void this standard since the affected land will no longer be retained in state ownership.

Public Access and Trails: Management guidelines provide that before selling, leasing, or otherwise disposing of the land estate, DNR will reserve public use easements pursuant to the requirements of *11 AAC 51.015. Standards for public easements*, and that easements will be reserved in accordance with applicable reservations. No evidence of recognized RS2477 trails was found for the area. No

## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 13 of 21

KIB or other trails have been identified in or around the proposed project area. However, as noted throughout this document, public access will be reserved in accordance with applicable statutes and regulations. Public access and use on lands retained by the state will continue under *11 AAC 96.020 Generally Allowed Uses on State Land*. Refer to the Access To, Within, and Beyond Project Area subsection for more information.

The proposed offering will be consistent with area-wide land management policies and general management intent of the KAP and specific management units if the proposed area plan amendment, land classification order, and mineral order are approved in accordance with *AS 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally*.

*AS 38.04.065 (b) Requirements:* The factors identified in this section of statute have been considered in this plan amendment and the proposed action is consistent with that portion of statute.

*Area Plan Amendment:* An approximately 75-acre unit (Area-3), located in the N½NE¼ Section 7, Township 26 South, Range 24 West, Seward Meridian of Unit K-05 will be moved into Unit K-03, and Unit K-03 management intent will apply. An approximately 22-acre unit (Area-7), located in the SW¼SW¼ Section 29, Township 25 South, Range 24 West, Seward Meridian of Unit K-02 will be moved into Unit K-04 and Unit K-04 management intent will apply. Area-3 and Area-7 will be converted from General Use to Settlement as part of the Kupreanof Shores Subdivision project (See Attachment A, Vicinity Map). This will allow suitable areas to be developed along with the adjoining or nearby management units which are already designated Settlement. This action will reduce the acreage of Management Unit K-05 from 2,745 acres to 2,715 acres and Management Unit K-02 from 1,737 acres to 1,715 acres.

*Land Classification Order:* In relation to the Area Plan Amendment, DNR proposes to reclassify approximately 75-acres within Unit K-05 and approximately 22-acres within Unit K-02 in a Land Classification Order from Resource Management to Settlement.

*Mineral Activity and Order(s):* No mineral activity has been identified on these lands; however, there are historic lode prospects and mines in the vicinity as reported by DGGs and thus there may be mineral potential within the project area and its vicinity. A portion of the project area is already closed to mineral entry under Mineral Order (closing) No. 437.

The project area will be closed to new mineral entry if Mineral Order 1182 is approved in accordance with *AS 38.05.185 Generally* and *AS 38.05.300 Classification of Land* for a land disposal. Closing an area to be offered for sale to mineral entry is consistent with the management intent of the Kodiak Area Plan.

Mineral orders which close an area to mineral entry, close the applicable area to new exploration and development of locatable minerals. Such mineral orders do not apply to leasable minerals (such as: oil, gas, coal, etc.), or exploration licensing for such, nor do

## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 14 of 21

they preclude reasonable surface access to these resources. However, *AS 38.05.130 Damages and Posting of Bond* stipulates that the land estate owner will be compensated for damages resulting from exploration and development.

Mining activity for locatable minerals would be incompatible with the past, current, and proposed land estate uses for land disposals. To allow new mineral location within the boundaries of the parcels encompassed by this decision could create serious conflicts between land estate and mineral estate users. Area plan mineral estate management policy states that, in general, areas scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between land estate and mineral estate users.

Local Planning: The project area is within the KIB and property purchased through this proposed offering will be subject to the applicable zoning, ordinances, and restrictions of the borough. The project area is within the boundary of the *Kodiak Island Borough Comprehensive Plan*. Review of that plan did not indicate any conflicts with this proposed state land disposal.

Traditional Use Finding: The project area is located within the KIB and a traditional use finding is therefore not required per *AS 38.05.830 Land Disposal in the Unorganized Borough*. However, information on current or traditional use is welcomed and can be given during the public comment period. See the **Section VIII Submittal of Public Comments** at the end of this documents and *Attachment C: Public Notice* for details on how to submit comment.

Access To, Within, and Beyond Project Area: Access to the project area from the City of Kodiak is primarily via watercraft or float plane to ocean shoreline. It is approximately 30 air miles from the City of Kodiak to the project area; from the end of the road at Anton Larson Bay it is approximately 30 miles by boat to the project area. Auction participants are advised that the Kupreanof Peninsula is quite remote and is subject to strong winds, significant ocean currents, and rough waters typically generated from conditions in the Shelikof Strait to the northwest. It is not uncommon for floatplane landing or even small boat approach to the shoreline to be difficult or restricted due to local weather and sea conditions. Subdivision design will include apparent natural safe moorages and landings, possibly reserved, with public access easements. Topography and access to lands beyond the project area boundaries will be considered. This project will only offer waterfront parcels. All lots not directly entered from the shore will be reached by reserved or plated access easements or overland travel on state lands as provided in *11 AAC 96.020 Generally Allowed Uses*. The project area is subject to the platting authority of the KIB. Approval of platting actions and dedication of rights-of-way will require separate processes and public notices through the borough.

*Access To and Along Public or Navigable Waters*: In accordance with *AS 38.05.127 Access To Navigable or Public Water*, DNR will determine if a water body is navigable or public and establish easements or rights-of-way as necessary to ensure unobstructed access to and along the body of water. Regulations dictating the creation of easements or rights-of-way under this statute include *11 AAC 51.035 Determination of Navigable and Public Water*, *11 AAC 51.045 Easements To and Along Navigable and Public Water* and *11 AAC 53.450(c), Buffer strips, reserved areas, and public easements*.

## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 15 of 21

For the purposes of AS 38.05.127:

- navigable waters are generally lakes larger than 50 acres in size or streams larger than 50 feet in average width;
- public waters are generally lakes larger than 10 acres in size or streams larger than 10 feet in average width; and
- waters may be determined public or navigable consistent with AS 38.05.965 (21) *Definitions*.

Federal determination has concluded all fresh water bodies in the project townships are non-navigable. All tidal waters are considered navigable under the *Submerged Land Act* (67 Stat. 29, P.L. 31, May 22, 1953). No other public water bodies have been identified within the project area. Because of the rugged nature of the tidelands along most of the project area, DMLW does not deem it feasible to retain public ownership and management of waterfront bluffs. Access to state uplands will be ensured by reserving corridors of state land that reach to the shore for the purposes of wildlife movement and generally allowed uses. Parcels will also be subject to access reservations in accordance with AS 38.05.127 *Access to Public or Navigable Water*.

*Building Setbacks From Public or Navigable Water.* In accordance with the KAP, if subdivision is deemed feasible, DNR DMLW proposes to place a note on the final survey plat describing a building setback upland from the MHW/OHW of public or navigable water to protect access, fish and wildlife habitat, and personal property. Except for utilities, water-dependent structures whose purpose is access to or across the stream or lake, or minor accessory structures for uses that must be in or adjacent to the water body in order to function, structures and subsurface sewage disposal systems will not be permitted within the building setback.

*Easements, Setbacks, and Retained Lands:* Subdivision design may include a variety of easements, setbacks, and retained lands, which will be identified on the subdivision plat and included in related informational documents. Final width and location of easements and reservations will be determined as part of the local platting process, which will include an additional opportunity for public participation.

Parcels and subdivision design may be subject to a variety of reservations or restrictions where appropriate:

- public access easements;
- utility easements;
- a 50-foot-wide section line easement on each side of surveyed or protracted section lines on State-owned land in accordance with AS 19.10.010 *Dedication of Land for Public Highways* and 11 AAC 51.025 *Section-line Easements*; section-line easements may be vacated under AS 19.30.410 *Vacation of Rights-of-Way* and 11 AAC 51.065 *Vacation of Easements* as part of the subdivision development;

## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 16 of 21

- a 50-foot continuous easement upland from the MHW or OHW of public or navigable water bodies in accordance with *AS 38.05.127 Access To Navigable or Public Water*;
- a minimum 50-foot building setback from OHW of non-anadromous or non-high-value lake or streams (each side), or sensitive environmental features as appropriate, in accordance with the KAP;
- a minimum 100-foot building setback from MHW of tideland areas or from the OHW of any anadromous or high-value lake in accordance with KAP;
- a minimum 100-foot parcel boundary setback each side from anadromous and high value streams for a total 200-foot width in accordance with KAP;
- a 5-foot survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a 5-foot direct line-of-sight easement from the control station to an azimuth mark or other control monument; and
- additional reservations and/or restrictions required through the local platting authority.

Where appropriate, reservations and restrictions will be depicted on the plat and/or described in plat notes.

Hazardous Materials and Potential Contaminants: During aerial field inspection conducted on June 2, 2015 and September 12, 2016, field staff did not observe any environmental hazards within the project area. There are no known environmental hazards present within the project area, however, the State makes no representations and no warranties, express or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for conveyance. The State further assumes no liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances eventually be found. Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land prior to bid or application submittal.

DNR DMLW recognizes there are potential future environmental risks when previously vacant land is occupied. Many of the activities increasing these potential risks are regulated by other agencies, such as the regulation of septic system installation by the State of Alaska, Department of Environmental Conservation. This risk is no greater than when vacant private land undergoes development. Given that this land was specifically designated Settlement for transfer into private ownership, and given the high degree of interest from both the legislature and citizens in transferring State-owned land into private ownership, the Department is of the opinion that the benefits of offering the land outweigh the potential risks.

Survey, Platting, and Appraisal: After evaluation of public comment and conditions of the land, DNR will determine if it is in the State's best interest to offer the proposed project area. In order to offer the property, a combination of survey, subdivision, and/or platting actions may be required.



## **Preliminary Decision**

Kupreanof Shores Subdivision – ADL 232354

Page 17 of 21

This proposed project area is located within the KIB, and therefore survey and platting will be subject to the relevant subdivision standards. The borough's platting requirements provide for separate public notice periods and processes for platting actions. These additional opportunities for public involvement occur after an approved Final Finding and Decision, if one is issued.

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting DNR DMLW standards will be required within two years of the date fixed for the sale of any parcel developed under this proposed action. Even though the sale of project area parcels in multiple offerings over time will mitigate "flooding" the market, the two-year appraisal requirement must still be followed.

Project research and development includes consideration of economic factors utilizing market data and project development costs compiled by DNR DMLW staff, which determines the economic feasibility of a project. Since it commonly takes several years for the project development process, AS 38.05.840 ensures the current market conditions are addressed in order to obtain a realistic minimum bid for the sale of State land.

## **VII. DMLW and Agency Review**

Information and comments received from multiple sections within DMLW prior to and during agency review have been considered and included in the preparation of this preliminary decision. Agency review was conducted from February 29, 2016 through April 7, 2016. Comments pertinent to this proposed action received during agency review have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent Final Finding and Decision, if one is issued.

*Alaska Department of Fish and Game (ADF&G) Comment:* Portions of the proposed subdivision are popular for both deer and bear hunting. ADF&G concurs with the proposed building setbacks, and reservation of section line easements and public access easements to ensure access into and around the subdivision. ADF&G has no objection to the development of this proposed state subdivision.

*DNR DMLW LSS Response:* The time and effort taken for review and comment are appreciated. Please note that further study of the KAP confirmed a minimum setback of 50-feet from wetlands, not 100-feet as listed in the agency review information. Research and field visits indicate there are few wetlands found on the peninsula, especially near the coastal sites proposed to be offered. DMLW LSS therefore has determined that the KAP 50-foot guideline will be applied. Should there be specific locations of concern, LSS will coordinate with ADF&G.

*Division of Parks and Outdoor Recreation (DPOR) Office of History and Archaeology (OHA) Comment:* Review of the Alaska Heritage Resources Survey (AHRIS) database indicated there are no reported cultural resource sites within the identified units. There has been minimal to no archaeological survey within these areas; the areas are considered to have moderate to high potential for archaeological resources. As such, OHA recommends that at a minimum Area-1 and Area-2 are archaeologically surveyed by a qualified cultural resource professional prior to land offering and encourage an archaeological survey for all units.

## **Preliminary Decision**

Kupreanof Shores Subdivision – ADL 232354

Page 18 of 21

Additional comments reiterated the need for all parties to be aware of the requirements of the Alaska Historic Preservation Act. Should cultural resources (historic, prehistoric, and archaeological sites, locations, remains, or objects) be discovered they must be preserved and OHA notified so that a proper evaluation of the resources can be made.

*DNR DMLW LSS Response:* The importance of cultural resources is recognized and has been considered. DMLW LSS agrees that it would be ideal to conduct an archaeological survey for all units by a qualified cultural resource professional prior to state land offerings. Proposed project locations are dispersed over several areas on both sides of the peninsula and will encompass no more than 400 acres along the shoreline, often in proximity to existing parcels already under private ownership. Because of the cost, funding constraints, and timeline for such activity, DMLW cannot agree to delaying or foregoing this project where the database indicated there are no reported cultural resource sites. In support of the Alaska Historic Preservation Act, when parcels are surveyed prior to offering, the contract instructions stipulate the surveyor is to include a note of any observed or suspected cultural resources he may come upon. Also, a reminder to the public of the need to report discovery of any cultural resource to OHA is routinely included in public offering documents if a project reaches that stage.

*Division of Geological & Geophysical Surveys (DGGS) Comment:* There are no active mining claims in the area; however, there are historic lode prospects and mines in the area. The 2004 Kodiak Area Plan fails to mention mineral resources, past mining activity, or potential mining in the Kodiak region. DGGS requested considering adding a line item for bedrock geology to the data table. Data was provided about engineering geology and geologic hazards, energy resources, and volcanic hazards.

*DNR DMLW LSS Response:* The detailed professional response is greatly appreciated. The two historic lode prospects referred to are outside of the proposed project area. LSS will consider adding bedrock information to the data table. Engineering and hazard information has addressed of this decision and will be considered during the subdivision design process.

*Division of Forestry (DOF) Comment:* Response of non-objection also included recommendation that materials related to Firewise and defensible space be provided to purchasers.

*DNR DMLW LSS Response:* The comments are appreciated. Offering materials and discussion in this preliminary decision include reference to the recommended items.

*Division of Oil and Gas (DOG) Comment:* Response of non-objection also recommended making purchasers aware of State reservations of oil, gas, minerals, fissionable material, geothermal resources, and fossils and reservation of right to enter lands with such items.

*DNR DMLW LSS Response:* The comments are appreciated. Offering materials and discussion in this preliminary decision include reference to the recommendation.

The following agencies all provided comments of non-objection:

- Alaska Railroad Corporation (ARRC)

## **Preliminary Decision**

Kupreanof Shores Subdivision – ADL 232354

Page 19 of 21

- Department of Environmental Conservation (DEC)
- Department of Commerce, Community and Economic Development (DCCED)
- Department of Natural Resources (DNR)
  - Division of Agriculture (DAg)
  - Division of Parks and Outdoor Recreation (DPOR)
  - State Pipeline Coordinator's Section (SPCS)
  - Mental Health Trust Land Office (MHTLO)
- Department of Transportation & Public Facilities (DOT/PF) – Southcoast DOT Region

The following agencies or groups were included in the agency review, but no comments were received:

- University of Alaska
- Kodiak Soil & Water Conservation District
- Alaska Association of Conservation Districts

## **VIII. Submittal of Public Comments**

**See Attachment C: Public Notice for specific dates and conditions.**

Pursuant to *AS 38.05.945 Notice*, DNR is issuing public notice inviting comment on this Preliminary Decision, draft area plan amendment, draft land classification order, and draft mineral order.

In accordance with *AS 38.05.946 (a) Hearings*, a municipality or corporation entitled to receive notice under *AS 38.05.945 (c)* may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

LSS will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the Preliminary Decision, draft area plan amendment, draft land classification order, or draft mineral order, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to any of the proposals will not be considered significant changes requiring additional public notice.

If the proposals are approved and no significant change is required, the Preliminary Decision, draft area plan amendment, draft land classification order, and draft mineral order including any deletions, minor changes, and summary of comments and LSS responses may be issued as a subsequent Final Finding and Decision, KAP Amendment No SC-04-001A01, Land Classification Order CL SC-04-001A01, and Mineral Order 1182 without further notice. All related actions will be developed separately. Approval of any action is dependent upon one another. One action will not proceed without approval of all actions.

Only persons from whom DNR DMLW LSS receives timely, written comment during the identified comment period will be eligible to file a request for reconsideration of the Final Finding and Decision, KAP Amendment No SC-04-001A01, Land Classification Order CL SC-04-001A01, and Mineral Order 1182. Upon approval and issuance of a Final Finding and Decision, these actions, a copy of the decision, orders, and amendment will be made available online at

## Preliminary Decision

Kupreanof Shores Subdivision – ADL 232354

Page 20 of 21

<http://landsales.alaska.gov/> and sent with an explanation of the request for reconsideration process to any party who provides timely written comment.

DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids, services, or special modifications in order to participate in this review. Individuals who may need such assistance should contact the Department's Public Information Center. For more information refer to *Attachment C: Public Notice*.

### **DEADLINE TO SUBMIT WRITTEN COMMENT IS 5:00 PM, THURSDAY, OCTOBER 4, 2018**

#### **X. Alternatives and Discussion**

DNR DMLW is considering the following alternatives:

Alternative 1: (Preferred) Develop a subdivision of no more than 40 parcels varying in size from approximately 5 acres up to 25 acres and offer those parcels for sale. The development and offering of these parcels may be completed in multiple stages. This proposal includes amendment to the KAP, land classification order, and mineral order.

Alternative 2: (Status Quo) Do not offer this project area for private ownership. Retain the land in State ownership.

Article VIII, Section 1 of the Alaska Constitution states, "it is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." *AS 38.05.045 Generally* has placed this charge with DNR, and the legislature has provided funding to administer the land sale program.

Alternative 1 provides a method for DNR to help meet the obligations laid out in the Constitution and statute, and maximizes public interest. This offering provides an opportunity for the public to obtain land for settlement in a desirable area. This proposal, if approved in a subsequent Final Finding and Decision, will allow DNR DMLW to create and design a subdivision which will provide for the best use and development of the land and financial return to the State. Alternative 1 provides the greatest opportunity for Alaskans to purchase land within this unique area that offers relatively good access to a remote portion of Alaska that is within reasonable reach of the established community of the City of Kodiak. Alternative 1 is preferred.

Alternative 2 is not preferred. The Legislature and the public have indicated a desire for DNR DMLW to offer State-owned land for private ownership. Retention of this land would inhibit DNR DMLW from meeting its constitutional, statutory, and legislative obligations. Not offering the project area would deny Alaskans the opportunity to obtain land in an area that is suited to settlement in a desirable location. The related actions are necessary to allow for the offering of the project area. The primary action and related actions are dependent upon one another, and if DNR DMLW does not approve the project, the related actions will not be processed.

For the aforementioned reasons, Alternative 1 is the preferred alternative.

Recommendation follows.

**Preliminary Decision**

Kupreanof Shores Subdivision – ADL 232354

Page 21 of 21

**IX. Recommendation**

This Preliminary Decision for the proposed disposal of state lands, KAP Amendment No SC-04-001A01, Land Classification Order CL SC-04-001A01, and Mineral Order 1182 described throughout this document and its attachments is consistent with the overall management intent for State-owned land. Alternative 1 is the preferred alternative because it provides the maximum opportunity for offering State land to the public and helps meet the mission of the land sales program. The Preliminary Decision described above, as represented by the preferred alternative, has been reviewed and considered. I find that the recommended action may be in the best interest of the state and that it is hereby approved to proceed to public notice.

This is a Preliminary Decision, and analysis of subsequent public review may result in changes to the preferred alternative of the proposed disposal of state lands, KAP Amendment No SC-04-001A01, Land Classification Order CL SC-04-001A01, and/or Mineral Order 1182. If the decision is approved, KAP Amendment No SC-04-001A01, Land Classification Order CL SC-04-001A01, and Mineral Order 1182 will accompany and precede any Final Finding and Decision issued.

/s/ John W. Thomas

Prepared by: John W. Thomas, Adjudicator  
Natural Resource Specialist III  
Land Sales Section  
Division of Mining, Land, and Water  
Department of Natural Resources  
State of Alaska

August 31, 2018

Date

/s/ Kathryn Young

Approved by: Kathryn Young  
Section Manager  
Land Sales Section  
Division of Mining, Land, and Water  
Department of Natural Resources  
State of Alaska

August 31, 2018

Date

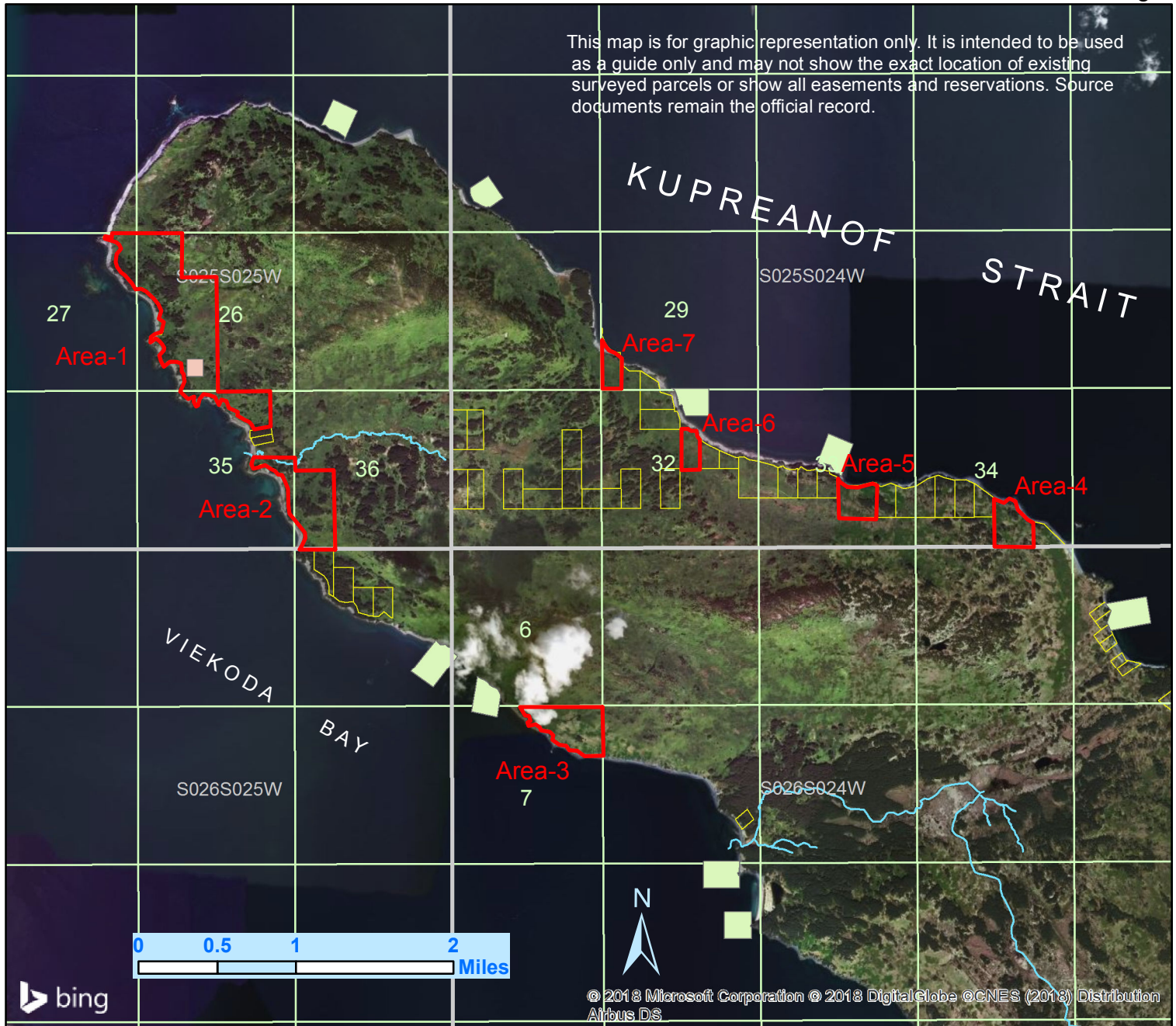




# Kupreanof Shores Subdivision ADL 232354

## Attachment A: Vicinity Map to the Preliminary Decision for a Proposed Land Offering in the Kodiak Island Borough

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.



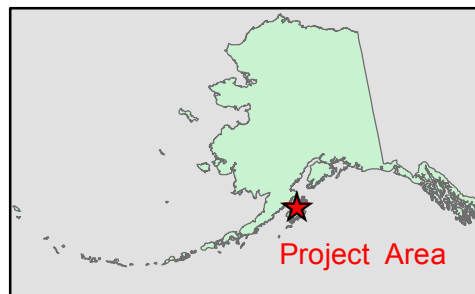
Seward Meridian: Portions of Sections in 3 Townships

JWT 8/28/2018

- T25S, R24W - Sections 29, 32, 33, & 34
- T25S, R25W - Sections 26, 27, 35, & 36
- T26S, R24W - Section 7

- Anadromous Fish Streams
- ADL 231815 Cabin Permit
- Shore Fishery Leases
- Existing Private Parcels

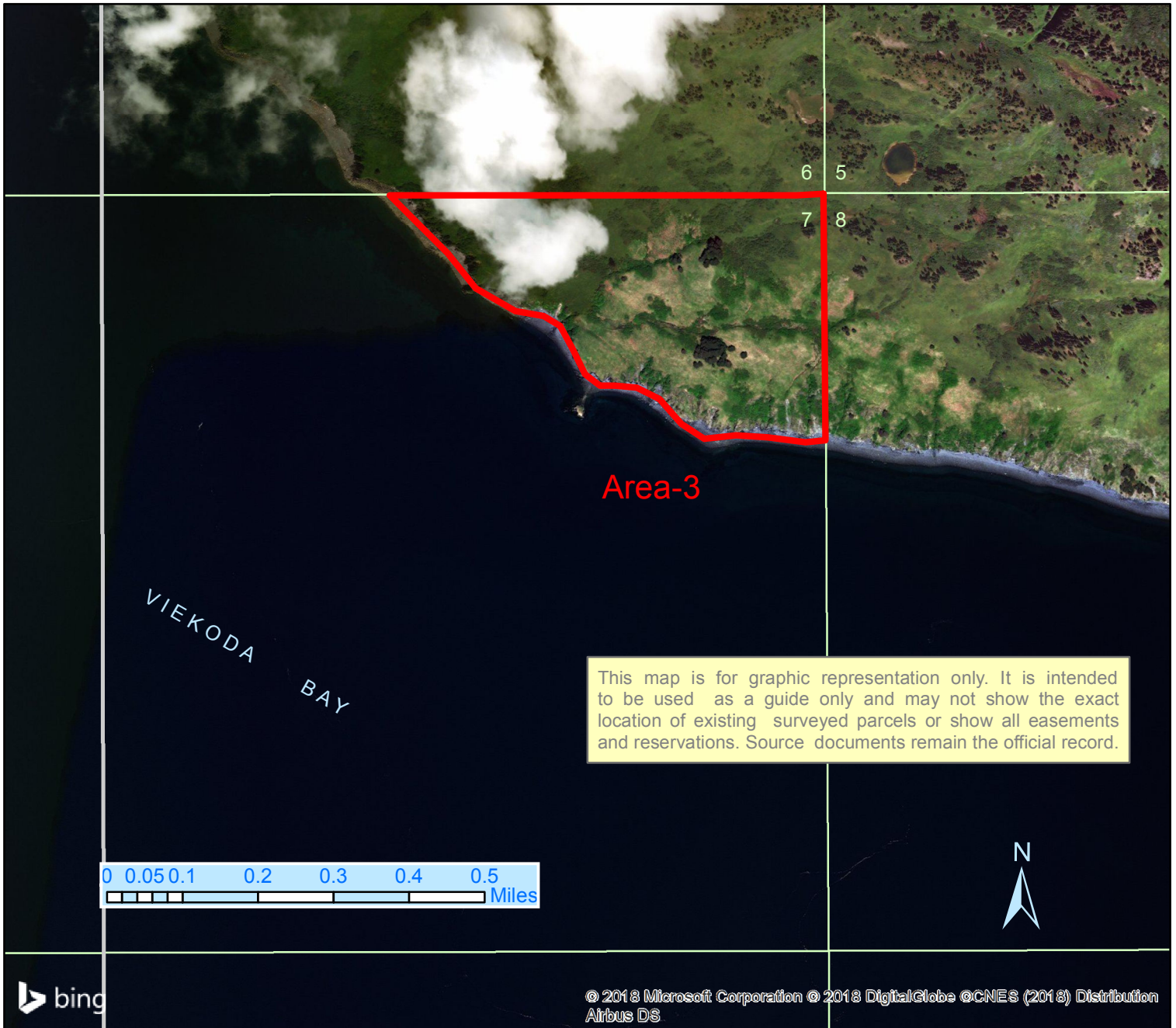
USGS QUAD 1:63,360  
 USGS KODIAK (D-4) QUADRANGLE  
 For more information contact:  
 John W. Thomas or Cliff Baker  
 Department of Natural Resources  
 Division of Mining, Land, and Water  
 Land Sales Section  
 Phone 907.269.8594/8522 Fax 907.269.8916  
 Email: land.development@alaska.gov






# Area-3 - area for SC-04-001A01 Kupreanof Shores Subdivision ADL 232354

Map: Portion of Unit K-05  
to become Settlement  
Related Action for the  
Preliminary Decision for a  
Proposed Land Offering in the  
Kodiak Island Borough

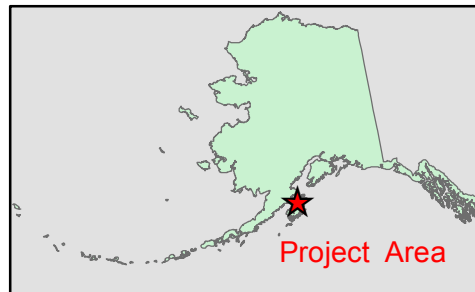


Seward Meridian  
T26S, R24W - Section 7

JWT 8/28/2018

 Area-3, less than 30 acres proposed for Settlement

USGS QUAD 1:63,360  
USGS KODIAK (D-4) QUADRANGLE  
For more information contact:  
John W. Thomas or Cliff Baker  
Department of Natural Resources  
Division of Mining, Land, and Water  
Land Sales Section  
Phone 907.269.8594/8522 Fax 907.269.8916  
Email: land.development@alaska.gov



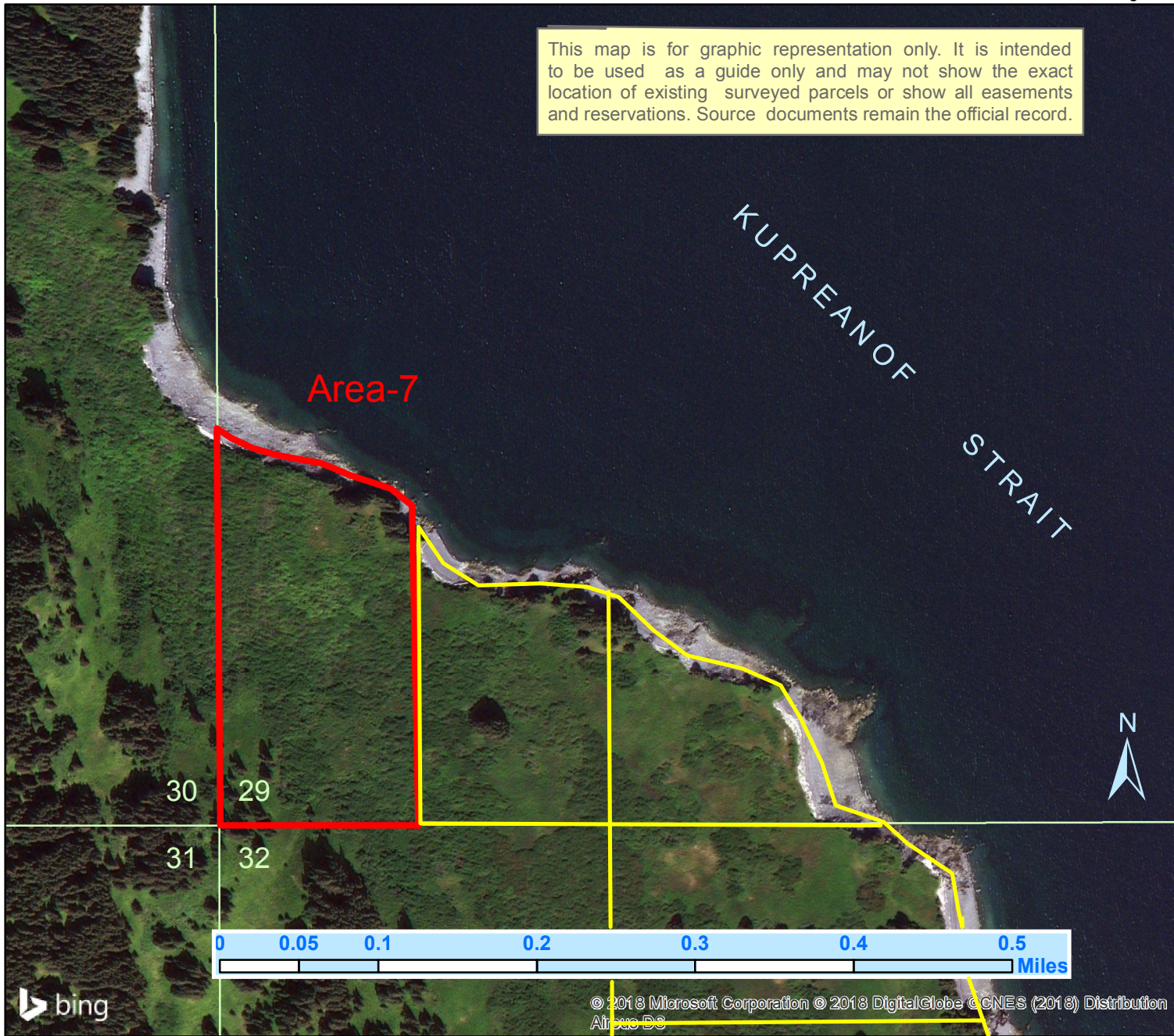




# Area-7 - area for SC-04-001A01 Kupreanof Shores Subdivision ADL 232354

Map: Portion of Unit K-02  
to become Settlement  
Related Action for the  
Preliminary Decision for a  
Proposed Land Offering in the  
Kodiak Island Borough

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.



© 2018 Microsoft Corporation © 2018 DigitalGlobe © CNES (2018) Distribution Airbus DS

JWT 8/28/2018

## Seward Meridian T25S, R24W - Section 29



Existing Private Parcels



Area-7, approximately 22-acres proposed for Settlement

USGS QUAD 1:63,360

USGS KODIAK (D-4) QUADRANGLE

For more information contact:

John W. Thomas or Cliff Baker

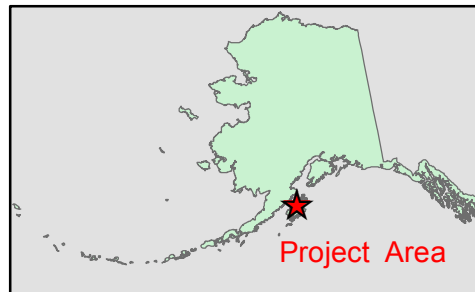
Department of Natural Resources

Division of Mining, Land, and Water

Land Sales Section

Phone 907.269.8594/8522 Fax 907.269.8916

Email: [land.development@alaska.gov](mailto:land.development@alaska.gov)





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

**ATTACHMENT B: AREA DATA SUMMARY TABLE**

to the  
**Preliminary Decision**

for a  
**Proposed Land Offering in the Kodiak Island Borough  
Kupreanof Shores Subdivision – ADL 232354**

<b>Offering Information</b>	
<b>Proposed Number of Parcels</b>	Up to a maximum of 40 parcels
<b>Proposed Parcel Size</b>	Varying in size from approximately 5 acres up to 25 acres.
<b>Proposed Related Actions</b>	Amendment to the KAP; Land classification order; Mineral order (closing)
<b>Project Area</b>	
<b>Location</b>	Kodiak Island, Kupreanof Peninsula, along shores of Viekodah Bay and Kupreanof Strait.
<b>Project Area Acreage</b>	Approximately 603 acres, no more than 400 acres proposed for development
<b>USGS Topography Map</b>	USGS Quad, Kodiak (D-4)
<b>Legal Description</b>	Portions of Sections 29, 32, 33, & 34, Township 25 South, Range 24 West; Portions of Sections 26, 27, 35, & 36, Township 25 South, Range 25 West; and Portions of Section 7, Township 26 South, Range 24 West; Seward Meridian. See Attachment A.
<b>Title</b>	Patented State-owned land
<b>Area Plan and Classification</b>	Kodiak Area Plan (KAP, adopted December 2004), Management Units K-01, K-03, and K-04/Kodiak Region are classified settlement. Units K-02 and K-05 are classified Resource Management; related actions propose reclassification of only small project areas to settlement.
<b>Mineral Orders</b>	Existing MCO 437 affects unit K-04; entire project area will be closed to mineral entry by MO (closed) 1182.
<b>Physical Characteristics</b>	
<b>Access</b>	Primarily via watercraft or float plane to ocean shoreline from City of Kodiak; approximately 30 air miles from City of Kodiak or approximately 30 miles by boat from Anton Larson Bay. Apparent natural moorages and landings along with internal or abutting public access easements will allow access to every parcel and to public upland state lands.

**Attachment B: Area Data Summary Table**

for a Proposed Land Offering in the Kodiak Island Borough

Kupreanof Shores Subdivision – ADL 232354

Page 2 of 4

<b>Terrain and Major Features</b>	Ocean front parcels to upland elevations of less than approximately 100 feet above sea level; uplands in the project area are generally flat to undulating, gradually sloping to steeper interior high mountains well beyond area of development. Some of the irregular shoreline is steep or cliff-faced, with or without rocky or gravelly beaches.
<b>View</b>	Local view across either Kupreanof Strait (northwest of Whale Passage) or Viekoda Bay
<b>Climate</b>	With a rainy atmosphere, long, cold winters, and mild summers, the gulf coast maritime climate zone lacks prolonged periods of freezing weather at low altitudes and is characterized by cloudiness and frequent fog. Severe winter storms are common from December through February. Kodiak Airport, for climate year July 1, 2013 to July 1, 2014, reported 78.2 inches of total precipitation, total snowfall of 43 inches, maximum temperature of 78°F and minimum of 6°F.
<b>Soils</b>	Generally consist of loamy soils on hilly to steep terrain and glacial moraines. Known soil concerns will influence the project's design and feasibility and such features will be described in the project file and offering materials where relevant.
<b>Wetlands</b>	US Fish and Wildlife Service, National Wetlands Inventory map indicates minimal or no wetlands exist within the project areas. Dredging or filling of wetlands may require a permit from the US Army Corps of Engineers.
<b>Vegetation</b>	The entire area is rich in grasses, alder, some willow and occasional cottonwood, and other forbs and shrubs including ferns, sedges, and devil's club or dominantly low shrubs. There are pockets of Sitka spruce throughout most of the project area with more extensive, scattered stands located further inland. Due to the wet marine climate, there is no evidence of wildfire in this area.
<b>Water Source</b>	KAP states that surface water is the prominent source of water. Very shallow wells or rain catchment may be possible. Local water quality is unknown.
<b>Anadromous Waters</b>	ADF&G Fish Resource Monitor and Anadromous Waters Catalogue: anadromous stream in T25S, R25W, SM: Code# 253-31-10020.
<b>Local Management Information</b>	
<b>Fire Management Option</b>	Full.
<b>Game Management Unit</b>	ADF&G game management unit 8, Region 2.
<b>Local Authority</b>	Kodiak Island Borough (KIB) holds authority for planning, platting, taxes, and zoning for the project area.
<b>Flood Zone</b>	Flood Information Rate Maps are not available for the project area.
<b>Utilities</b>	No known services exist within the project area.
<b>Waste Disposal</b>	There are no waste disposal services for this area. All on-site solid waste and waste water disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.
<b>Setbacks, Reserved Areas, Easements, and Conditions</b>	

**Attachment B: Area Data Summary Table**

for a Proposed Land Offering in the Kodiak Island Borough

Kupreanof Shores Subdivision – ADL 232354

Page 3 of 4

<b>Improvements</b>	Prior to construction of any structure, driveway, or waste disposal system, owners should contact the platting authority for any permits or for required setbacks from water bodies, lot lines, and easements.
<b>Building Setbacks</b>	<ul style="list-style-type: none"> <li>• a minimum 50-foot building setback from OHW of non-anadromous or non-high-value lake or streams (each side), or sensitive environmental features as appropriate, in accordance with the KAP;</li> <li>• a minimum 100-foot building setback from MHW of tideland areas or from the OHW of any anadromous or high-value lake in accordance with KAP;</li> <li>• a minimum 100-foot parcel boundary setback each side from anadromous and high value streams for a total 200-foot width in accordance with KAP.</li> </ul>
<b>Public Access and Utility Easements</b>	<p>Parcels may be subject to the following:</p> <ul style="list-style-type: none"> <li>• public access easements;</li> <li>• utility easements;</li> <li>• a 50-foot-wide section line easement on each side of surveyed or protracted section lines on State-owned land in accordance with AS 19.10.010 <i>Dedication of Land for Public Highways</i> and 11 AAC 51.025 <i>Section-line Easements</i>; section-line easements may be vacated under AS 19.30.410 <i>Vacation of Rights-of-Way</i> and 11 AAC 51.065 <i>Vacation of Easements</i> as part of the subdivision development;</li> <li>• a 50-foot continuous easement upland from the MHW or OHW of public or navigable water bodies in accordance with AS 38.05.127 <i>Access To Navigable or Public Water</i>;</li> <li>• a 5-foot survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a 5-foot direct line-of-sight easement from the control station to an azimuth mark or other control monument; and</li> <li>• additional reservations and/or restrictions required through the local platting authority.</li> </ul>
<b>Retained Lands</b>	DNR intends to retain those state lands outside of surveyed parcels.
<b>Public or Navigable Water Bodies</b>	All tidal waters have been determined by the US Bureau of Land Management to be navigable waters. There are no other public or navigable waters identified within the project area. If additional water bodies are deemed public or navigable within the project area prior to platting, DNR DMLW will comply with statutory requirements to provide access to and along said water bodies.
<b>Additional Information</b>	
<b>Native Regional Corporations</b>	Koniag Inc. Regional Corporation
<b>Villages and Tribal Councils</b>	Region Villages of Afognak, Anton Larsen Bay, Bell Flats, Litnik, Ouzinkie, Port Lions, Kodiak, Uganik, and Woody Island will be sent notice. The Traditional Tribal Councils of Afognak, Ouzinkie, Port Lions, Sun'aq of Kodiak, Uganik, and Woody Island will also be sent notice.

**Attachment B: Area Data Summary Table**  
for a Proposed Land Offering in the Kodiak Island Borough  
Kupreanof Shores Subdivision – ADL 232354  
Page 4 of 4

<b>Oil and Gas Activity</b>	None known.
<b>Mining Activity</b>	None known currently.
<b>Comments</b>	None.

## ATTACHMENT C: PUBLIC NOTICE

### STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND, & WATER LAND SALES SECTION

#### PUBLIC NOTICE

Requesting Input for a Proposed Land Offering:  
**Kupreanof Shores Subdivision – ADL 232354**

**COMMENT PERIOD ENDS 5:00PM, THURSDAY, OCTOBER 4, 2018**

This proposed project includes offering for sale surveyed parcels in a future offering under the method and the related actions as described in the Preliminary Decision document. The project may be subdivided and offered in multiple offerings over time.

Location: within DNR's Southcentral Region, approximately 30 air miles west of the City of Kodiak, on Kupreanof Peninsula within the Kodiak Island Borough.  
Project size: approximately 603 acres with no more than 400 acres proposed development  
Proposed Offering: up to 40 parcels sized from 5 to 25 acres or more

To obtain the notice, Preliminary Decision, Mineral Order, Land Classification Order, Area Plan Amendment, or instructions on submitting comment, go to <http://landsales.alaska.gov/> or <http://aws.state.ak.us/OnlinePublicNotices/>. For assistance in obtaining the documents by an alternative method, to request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10AM and 5PM in Anchorage at 907.269.8400 (TDD for the hearing impaired: 907.269.8411) or Fairbanks at 907.451.2705 (TDD for the hearing impaired: 907.451.2770), or the Southeast Land Office in Juneau at 907.465.3400 (TDD for the hearing impaired: 907.465.3888), or go to <http://dnr.alaska.gov/commis/pic/> for additional contact information. Individuals who require special assistance must request assistance from the Public Information Center in Anchorage no later than 4:00 PM, Wednesday, September 26, 2018.

Pursuant to *AS 38.05.945 Notice*, the public is invited to submit comment on the Preliminary Decision, Mineral Order, Land Classification Order, and Area Plan Amendment for which notice is being conducted concurrently. If commenting on more than one proposed action, separate comments should be submitted for each. **The deadline for public comment is 5:00 PM, THURSDAY, OCTOBER 4, 2018.** Only persons from whom DNR DMLW LSS receives timely, written comment during the identified comment period will be eligible to file a request for reconsideration of the Final Finding and Decision. Written comment may be received by fax, email or postal mail. To submit comments or for direct inquiries, contact DNR DMLW Land Sales Section, 550 W. 7<sup>th</sup> Ave., Suite 640, Anchorage, AK 99501, fax # 907.269.8916 [land.development@alaska.gov](mailto:land.development@alaska.gov). If you have questions, call John W. Thomas at 907.269.8591.

If no significant change is required, the preliminary decision, mineral order, land classification order, and area plan amendment, including any minor changes and a summary of comments and responses, will be issued as the final finding and decision without further notice. A copy of

**Attachment C: Public Notice**

for a Proposed Land Offering in the Kodiak Island Borough

Kupreanof Shores Subdivision – ADL 232354

Page 2 of 2

the final finding and decision will be sent to any persons who commented timely on the preliminary decision.

DNR reserves the right to waive technical defects in this notice.